

ORIGINAL

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7 Attorneys for Defendants:
 8 *EverHome Mortgage Company*, sued in that
 9 name and as Alliance Mortgage Company
 dba BNY Mortgage

10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **SOUTHERN DIVISION**

13 NATIONAL ORGANIZATION OF
 14 ASSISTANCE FOR HOMEOWNERS a
 15 Non-Profit Homeowner Organization
 16 representing Individual Members;
 17 JAIME ACIO; FRED AGUILAR;
 18 DIVINA ARAGON; ARACELI
 19 ARREOLA; BRUCE BANH; ROGER
 20 BARROW; PATRICIA
 21 CAMPOVERDE; PAULINE CANAS;
 22 RUSTICO CORPUZ; ANTONIO
 23 CUELLAR; TRAN DAO; THOMAS
 24 DIEP; DARIO DRAKE; ARNOLD
 25 DYSICO; LYDIA EDEJER; DELFIN
 26 FAVORITO; JAIME GUINTO;
 27 CARMEN GUTIERREZ; BEATRICE
 28 HERNANDEZ; TRACY HO; SUSAN
 HOANG; DE HUYNH; FELIPE R
 LOPEZ; MARIO LOPEZ; CHRISS
 NGUYEN; NORA ORTEZA; ROSITA
 QUIJADA; LYNN RAMOS;
 MILAGROS REOTUTAR; MOISES
 RODRIGUEZ; CESAR SOLLA;
 HUMBERTO TORRES ARREOLA;
 KHEO TRAN; MARIA TRUJILLO;
 RAFAEL VASQUEZ; ANA CALMA;
 FRANCISCO UBANA; JUAN
 BALTAZAR; TOMMY ENCINAS;
 SALVADOR SASING; BRUCE
 BANH; BOBBY CABESAS;
 EDUARDO FERRER; MARIA

Case No. SACV11-00622

JST(VBKx)

NOTICE OF REMOVAL

Removed from Orange County
 Superior Court, Case No. 30-2011-
 00447677-CU-OR-CXC

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 Los Angeles, California 90017

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4 YOU; JOSE CRUZ; RACHEL
5 LICUANAN; ALBERT SANFORD;
6 JESUS OROZCO; MICHAEL
7 MCCARTHY; MODESTO JAOJOCO;
8 GEORGE ROXAS; EDEN HERRERA;
9 JAY McREYNOLDS; RAMON
10 QUIZON; BULMARO
11 MALDONADO; RODITHA
12 CAMACHO; IGRID AGRA; MARIA
13 LOURDES CEBREROS; LOTA
14 BAUTISTA; EVANGELINE
15 BRIGHAM; ARTHUR LINDSEY;
16 FELICIDAD DIAZ; MARIANO
17 PINEDA; RODOLFO CAIREL;
18 PLINYLOU FONDEVILLA;
19 MARIANO TADEO; MANUEL
20 HERNANDEZ; JOSE MENDEZ;
21 MARIA GARCIA; CARLITO BUGAS.
22 KATHRYN COWAN; MIRIAM
23 ZUNIGA; PATRICIA DOMINICUS;
24 ISABEL FERNANDEZ; GLORIA
25 ENRIQUEZ; JOSELITO FABIONAR
26 ;WILFREDO FUNTANILLA;
27 ROSELLYN ROQUE; VIRGINIA
28 SEBASTIAN; SENEN OCHOA;
DANNY GARO; ALLISON GORE;
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GONZALES ;JEANNIE HA; TIN
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CORNEJO; PABLO KISLANKA;
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CASSANDRA ANDRES;
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MERLITA LAVARIAS; VIOLETA
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CARRILLO; ANTONIO FLORES;
ANGEL MEDINA; COCKY BULL;

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6 VERANO; SEUNG HEE UM; MARIA
7 LOURDES MAGLUPAY; OSARO
8 IKHYWUREFE; MARGARET NIBA;
9 DIEP PHAM; ANHTHU PHAM; TRI
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11 LOUELLA D. MANZANO; VICENTE
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17 CHRISTOPHER MORRIS; THUY
18 THANH NGUYEN; NINA & CHIEU
19 VAN NGUYEN; JOSE R. RAMIREZ;
20 YEN K. HUYNH; SEE JUN KIM; KI
21 W. JANG; BALDOMERO A.
22 FERRANCOL; TUAN DUC NGUYEN;
23 WILLIAM THOMAS; MARIVIC
24 DUENAS; DEISSY GONZALEZ;
25 JOHNNY ABONALES; JAVIER
26 AQUILINO; NORMAN DELA CRUZ;
27 RAFAEL FIGUEROA; WILLIAM
28 GUILLEN; JEFFREY SISON; FRANK
MACIAS; ENRIQUE C. PEREZ;
SIMEON REYES JR.; TRAN TRAN;
TESSIE RODRIGUEZ; JOSEPHINE
CASTANAR; DAVID EMMANUEL;
MARK SMITH; NAM BINH
NGUYEN; CHAO WIN TING;
ERNESTO GO; ZOILA SANCHEZ;
ANTHONY MABUTOL; ELEANOR
LICUP; ARTHUR OUREISHI; ANA
ZAVALA; MARY JEAN PISCO;
ANTONIO ALVE; SANG WOO SEOL;
DULCE ALVAREZ; ANNABENA
SANTOS; PATRICIO SULIT;
MARTIN ABOY; DANIEL SIEU;
JERROLD LLOPIS; NANCY HYSON;
BRYAN BA; individuals; on behalf of
themselves and all others similarly
situated; ROES 143 through 5000;
inclusive,

Plaintiffs,

v.

26 AMERICA'S SERVICING
27 COMPANY, an Iowa corporation;
28 AMERICAN HOME MORTGAGE
SERVICING, INC., a Delaware

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1 corporation; SELECT PORTFOLIO
2 SERVICING, a Utah corporation; ING
3 DIRECT, a Delaware corporation;
4 BANK UNITED, FSB, a corporation;
5 OPTION ONE MORTGAGE, a
6 corporation; PEOPLE's CHOICE
7 HOME LOAN INC; a corporation;
8 BENEFICIAL CALIFORNIA INC, a
9 corporation; HSBC MORTGAGE
10 CORPORATION; GATEWAY BANK;
11 PHH MORTGAGE; CENLAR LOAN
12 ADMINISTRATION; BAYVIEW
13 LOAN SERVICES; FIRST FEDERAL
14 BANK of CA; FIRST FRANKLIN
15 LOAN SERVICES; SOVEREIGN
16 BANK; MIDWEST LOAN SERVICES;
17 UNION BANK; BANCO POPULAR;
18 N.A.; PROVIDENT FUNDING
19 ASSOCIATES; EVERHOME
20 MORTGAGE COMPANY; AEGIS
21 WHOLESALE CORP.; WILSHIRE
22 CREDIT UNION; TMST HOME
23 LOANS, INC; NATIONSTAR
24 MORTGAGE, LLC; MOR EQUITY;
25 FREEDOM MORTGAGE
26 CORPORATION; CARRINGTON
27 MORTGAGE SERVICE; LONG
28 BEACH MORTGAGE CO.;
SUNTRUST MORTGAGE INC.; PNC
FINANCIAL SERVICES; CATHAY
BANK; HOMECOMINGS
FINANCIAL, LLC; QUANTUM
SERVICING CORP.; SPECIALIZED
LOAN SERVICING, LLC; RCS;
VERICREST FINANCIAL, INC;
RESMAE MORTGAGE CORP; CMS;
DESERT COMMUNITY BANK;
CALDIRECT HOME LOAN;
GREENPOINT MORTGAGE
FUNDING, INC; METLIFE HOME
LOANS; MIRAD FINANCIAL
GROUP; VANDERBILT
MORTGAGE; CAPITALONE
MORTGAGE; FIRST FEDERAL
BANK; GE MONEY BANK;
UNIVERSAL AMERICAN
MORTGAGE COMPANY OF CA;
BRENWARD MORTGAGE;
BAYROCK MORTGAGE
CORPORATION; FLAGSTAR BANK;
ASTORIA FINANCIAL, LLC;
MATRIX FUNDING GROUP, LLC;
TAYLOR BEAN & WHITAKER
MORTGAGE CORP.; ACCREDITED
HOME LENDERS, INC.; FIRST

1 NATIONAL BANK; FIRST
2 NATIONAL BANK OF ARIZONA;
3 NATIONAL CITY MORTGAGE;
4 AMARILLO NATIONAL BANK;
5 CENTER BANK; SECURED
6 FUNDING CORP.; NEW CENTURY
7 MORTGAGE; ALLIANCE
8 MORTGAGE COMPANY dba BNY
9 MORTGAGE; AMERICAN
10 MORTGAGE EXPRESS CORP.;
11 SIERRA PACIFIC MORTGAGE, INC;
12 MIDLAND MORTGAGE CO.;
13 REPUBLIC MORTGAGE; CHEVY
14 CHASE BANK; UNITED
15 COMMERCIAL BANK; HANMI
16 BANK RESIDENTIAL MORTGAGE;
17 MARIX SERVICING; FIRST
18 FRANKLIN FINANCIAL; NGBI, INC;
19 ARGENT MORTGAGE; MIT
20 LENDING; RBMG, INC. and Does 1 to
21 1000, inclusive,

22 Defendants.

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Defendant EverHome Mortgage Company, which has been sued in that name and as Alliance Mortgage Company dba BNY Mortgage, (“Defendant” or “EverHome”) hereby removes the above-captioned case, Case No. 30-2011-00447677-CU-OR-CXC, currently pending in the Superior Court of California, County of Orange (the “State Court Action”), to the United States District Court for the Central District of California, Southern Division. As grounds for removal, Defendant states as follows:

I. BACKGROUND

1. The Plaintiffs in this action include the National Organization of Assistance for Homeowners (“NOAH”) and 206 individual plaintiffs (“Individual Plaintiffs”) (collectively, “Plaintiffs”). See First Amended Complaint (“FAC”), at pp. 1-3 (caption) & ¶¶ 5-211.¹ According to the FAC, Individual Plaintiffs are borrowers who have sued Defendants after defaulting on their loan obligations, and NOAH is an organization purporting to be a nonprofit corporation operating for educational and charitable purposes. *Id.* The loans of Individual Plaintiffs are secured by real property pursuant to deeds of trust. *Id.*

2. The initial complaint (“Complaint”) in this case was filed by many of the same Plaintiffs in the current State Court Action in the Superior Court of the State of California, County of Orange, Case No. 30-2011-00447677-CU-OR-CXC, on or about February 7, 2011. The Complaint is attached hereto as **Exhibit 1**. Plaintiffs then filed their FAC on or about March 11, 2011. The FAC is attached hereto as **Exhibit 2**. All of the pleadings and papers filed in the State Court Action are attached hereto as **Exhibit 3**.

3. The FAC purports to assert causes of action for fraudulent concealment (First Cause of Action), intentional misrepresentation (Second Cause of Action), negligent misrepresentation (Third Cause of Action), violation of California Civil

¹ The FAC includes ROE plaintiffs, 120-5000, but unnamed parties are ignored for removal purposes.

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Code section 2923.5 (Fourth Cause of Action), violation of California's Unfair Competition Law ("UCL"), Business & Professions Code §§ 17200, *et seq* (Fifth Cause of Action), and breach of contract (Sixth Cause of Action). *Id.*, p. 1. Plaintiffs seek relief in the form of damages, declaratory judgment that Plaintiffs' notes and mortgages are void, injunctive relief, "statutory relief" and restitution pursuant to Civil Code section 2923.5, attorney's fees, costs, and pre- and post-judgment interest. FAC, at p. 94 (Prayer for Relief).

4. As Defendant demonstrates below, this Court has subject matter jurisdiction over this action under 28 U.S.C. section 1332, as amended by the Class Action Fairness Act ("CAFA").

II. THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER CAFA

5. Under 28 U.S.C. section 1332(d)(11), as implemented by CAFA, a "mass action" is removable as a "class action" to the appropriate United States District Court when (1) the litigation involves monetary claims brought by 100 or more persons proposed to be tried jointly; (2) such claims involve common questions of law or fact; (3) all other requirements of 28 U.S.C. section 1332(d)(2)-(10) are met, including the requirement that the aggregate amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs; and (4) at least one of the plaintiffs' claims exceeds the \$75,000 jurisdictional threshold for federal diversity jurisdiction under section 1332(a). 28 U.S.C. §§ 1332(d)(11)(A), (B); *Abrego Abrego v. Dow Chemical Co.*, 443 F.3d 676, 689 (9th Cir. 2006); *Tanoh v. Dow Chem. Co.*, 561 F.3d 945, 952 n.4 (9th Cir. 2009). This case is a removable "mass action" under the provisions of CAFA.

Monetary Claims Brought by 100 or More Persons.

6. The FAC alleges that 207 Plaintiffs are entitled to recover monetary damages (and other relief) for the time period of 2002 to 2007. *See* FAC ¶¶ 6-211, & p. 94 (prayer for relief). It also demands a jury trial on their collective behalf. *Id.*, p. 2. Thus, the FAC is brought by more than 100 plaintiffs seeking monetary

1 damages and who propose to try the case jointly. *See Bullard v. Burlington No.*
 2 *Santa Fe Rwy. Co.*, 535 F.3d 759, 762 (7th Cir. 2008) (affirming the district court's
 3 conclusion that "one complaint implicitly proposes one trial").

4 Common Questions of Law or Fact.

5 7. Although Defendant does not concede that such common questions
 6 exist, the FAC explicitly claims to arise from a set of "common facts" (FAC ¶ 239),
 7 including that (i) all of the Defendants allegedly deceived Plaintiffs to enter into
 8 loans they acquired or now service; (ii) the Defendants purportedly engaged in the
 9 "fraudulent and illegal" use of MERS in connection with those loans; (iii) the
 10 Defendants purportedly failed to perform their obligations in connection with certain
 11 contracts with third parties; (iv) the Defendants purportedly breached the Plaintiffs'
 12 statutory rights, consumer and homeowner protection statutes, the UCL, and other
 13 statutes, and (v) the Defendants allegedly accepted money, transferred assets, and
 14 foreclosed upon assets in instances when they had no authority to act. *See* FAC ¶¶
 15 1, 241-251, 255, 257, 268, 275-278, 288-292.

16 Requirements of 28 U.S.C. section 1332(d)(2)-(10).

17 8. Minimal Diversity. The requisite minimal diversity of citizenship exists
 18 under section 1332(d)(2) because at least one plaintiff is a citizen of a state different
 19 from at least one defendant.

20 9. On information and belief, Plaintiff Jamie Acio is a California citizen. *Id.*
 21 ¶ 6. Plaintiff Acio alleges that he is "residing in the State of California", that the
 22 loan at issue is on his residence and Defendants are attempting to dispossess him of
 23 his residence, and that he seeks to stop foreclosure on this property. *Id.* ¶¶ 3-4, 6,
 24 358-365. As such, the FAC demonstrates Plaintiff is a citizen of California.

25 10. On information and belief, 190 other Plaintiffs are also California
 26 citizens. In each case, the FAC alleges that these 190 individuals reside in the State
 27 of California, that a loan at issue is on his or her residence and Defendants are
 28 attempting to dispossess him or her of the residence, and that he or she seeks to stop

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1 foreclosure on this property. *Id.*, ¶¶ 3-4, 6-149, 154-157, 160, 162-167, 169-177,
2 179, 181-182, 184-185, 188-194, 196-200, 202, 204-205, 207-211, 358-365. As
3 such, the FAC demonstrates that these 190 other Plaintiffs are all citizens of
4 California.

5 11. On information and belief, the remaining 16 Plaintiffs are citizens of
6 Nevada, Mississippi, Arizona, Florida, Maryland, Illinois, or Virginia. In each case,
7 the FAC alleges that these 16 Plaintiffs reside in one of those seven states, that a
8 loan at issue is on his or her residence and Defendants are attempting to dispossess
9 him or her of the residence, and that he or she seeks to stop foreclosure on this
10 property. *Id.*, ¶¶ 3-4, 150-153, 158-159, 161, 168, 178, 180, 183, 186-187, 195,
11 201, 203, 206, 358-365. As such, the FAC demonstrates that these 16 Plaintiffs are
12 citizens of one of those seven states.

13 12. Defendant Alliance Mortgage Company dba BNY Mortgage is now
14 known as EverHome Mortgage Company and is Defendant EverHome Mortgage
15 Company. Defendant EverHome Mortgage Company is incorporated in Florida and
16 with its principal place of business in Jacksonville, Florida. See Declaration of
17 Alice Gronert ¶ 3, attached as **Exhibit 4**. Thus, for citizenship purposes, EverHome
18 is a citizen of Florida. 28 U.S.C. § 1332(c)(1).

19 13. At Least \$5,000,000 in Controversy. Although Plaintiffs do not plead a
20 specific damages amount, there is more than \$5,000,000 in controversy in this
21 action. Under 28 U.S.C. section 1332(d), as amended by CAFA, the amount in
22 controversy in a putative class action (defined to include a “mass action” such as
23 this one) is determined by aggregating the amount at issue in the claims of all
24 members of the putative class. 28 U.S.C. § 1332(d)(6).

25 14. Plaintiffs plead that they are entitled not just to general compensatory
26 damages, but also punitive damages, attorneys’ fees, injunctive relief, and a
27 judgment declaring that the mortgages are “void.” FAC, p. 94 (prayer for relief).
28 The aggregate value of these forms of relief, as a matter of law, all count toward the

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1 \$5,000,000 jurisdictional amount. 28 U.S.C. § 1332(d)(6); *Amezcuca v. Cellco*
2 *Partnership*, No. 08-cv-04390, 2009 WL 1190553, at *3 (N.D. Cal. May 3, 2009)
3 (punitive damages); *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004,
4 1010-11 (N.D. Cal. 2002) (“a reasonable estimate of fees likely to be incurred to
5 resolution” counts toward the amount in controversy); *Cohn v. PetSmart, Inc.*, 281
6 F.3d 827, 840 (9th Cir. 2002) (injunctive relief); *Century Sur. Co. v. J Quinn*
7 *Constr.*, No. CV 09-06085 DDP (JEMx), 2010 U.S. Dist. LEXIS 11883, at *8-9
8 (C.D. Cal. Jan. 20, 2010) (declaratory relief).

9 15. First, at minimum, the amount in controversy is at least each Plaintiff’s
10 outstanding principal balance that they seek to void (in addition to Plaintiffs’ claims
11 for actual damages, statutory damages, punitive damages, restitution, and attorney’s
12 fees). FAC, p. 1 (“including declaratory and injunctive relief to void mortgage”), 94
13 (prayer for relief). It is well-established that where a plaintiff seeks declaratory or
14 injunctive relief, the amount in controversy for removal jurisdiction purposes is
15 measured by the value of the object of the litigation. *Cohn v. Petsmart*, 281 F.3d
16 837, 840 (9th Cir. 2002); *accord Hunt v. Wash. St. Apple Adver. Comm’n*, 432 U.S.
17 333,347 (1966). Where, as here, a Plaintiff effectively seeks rescission or
18 invalidation of a note and mortgage (or deed of trust), the object of the litigation is
19 the loan. *Olander v. ReconTrust Corp.*, No C11-177-MJP, 2011 WL 841313, at *2
20 (W.D. Wash. Mar. 7, 2011); *Ngoc Nguyen v. Wells Fargo Bank, N.A.*, No. C-10-
21 4081-EDL, 2010 WL 4348127, at *5-6 (N.D. Cal. Oct. 27, 2010). As such, the
22 value of the relief of rescission or invalidation may also be measured by the current
23 outstanding principal amount of the loan. *See Olander*, 2011 WL 841313, at *2-3;
24 *Garcia v. Citibank, N.A.*, No. 2:09-CV003387-JAM-DAD, 2010 WL 1658569, at *2
25 (E.D. Cal. Apr. 23, 2010).

26 16. Here, although Defendants do not concede that Plaintiffs allegations are
27 accurate, three Plaintiffs allege a relationship with EverHome. FAC ¶¶ 100, 173,
28 210. The current outstanding loan balances for these three Plaintiffs total

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1 approximately \$774,251. *See* Declaration of Alice Gronert (“Second Gronert
2 Declaration”) ¶¶ 6-8, attached as **Exhibit 5**.

3 17. Thus, the outstanding loan principal of the remaining 203 Individual
4 Plaintiffs need only be \$4,225,749, or approximately \$20,817 each, to meet the
5 \$5,000,000 threshold. Based on the outstanding loan balance of the three Plaintiffs
6 who allege a relationship with EverHome – who have an average loan balance of
7 approximately \$ \$258,083.67, it is more likely that not that together, the aggregate
8 outstanding loan balances of the remaining 203 Plaintiffs exceed the \$4,225,749
9 required to meet the \$5,000,000 threshold. FAC ¶¶ 224, 251; *Guglielmino v. McKee*
10 *Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007) (“more likely than not” standard
11 applies to amount in controversy under CAFA).

12 18. Moreover, the initial Complaint in this action alleged each of those
13 Plaintiffs’ approximate outstanding loan balance. *See* Complaint, ¶¶ 21-168. The
14 loan balances of those Plaintiffs who are also named in the FAC as alleged in the
15 Complaint total more than \$64 million. *Id.* ¶¶ 21-69, 71-105, 107-165, 167-168.

16 19. In determining the amount in controversy, the Court may consider these
17 allegations in the original Complaint, which are factual admissions by Plaintiffs.
18 *See Kosen v. Ruffing*, No. 08-cv-0793-LAB (WMC), 2009 WL 56040 (S.D. Cal.
19 Jan. 7, 2009) (finding jurisdiction and denying remand where plaintiff admitted
20 amount in controversy requirement was met); *American Title Ins. Co. v. Lacelaw*
21 *Corp.*, 861 F.2d 224, 226 (9th Cir. 1988) (“Factual assertions in pleadings . . . are
22 considered judicial admissions conclusively binding on the party who has made
23 them.”); *Huey v. Honeywell, Inc.*, 82 F.3d 327, 333 (9th Cir. 1996) (even when
24 superseded, complaint “still remains as a statement once seriously made by an
25 authorized agent, and as such it is competent evidence of the facts stated.”); *accord*
26 *Unicom Systems Inc v. Electronic Data Systems, Corp.*, No. CV 04-6716-
27 AHM(RZx), 2005 WL 5801534, at *11 (C.D. Cal. Nov. 1, 2005); *SST Sterling*
28

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1 *Swiss Trust 1987 AG v. New Line Cinema Corp.*, No. CV 05-2835-DSF(VBKx),
2 2005 WL 6141290, at *2 n.1 (C.D. Cal. Oct. 31, 2005).²

3 20. Plaintiffs alternately claim they have been damaged “in a sum
4 according to proof, which – inclusive of all damages, costs and attorneys’ fees – is
5 equal to or less than \$70,000 for each Plaintiff,” or “in a sum less than \$75,000.”
6 *See, e.g.*, FAC ¶¶ 343, 394. Even taking Plaintiffs’ assertions at face value, if each
7 of the 207 Plaintiffs seeks actual damages of \$70,000, then the aggregate amount
8 sought is \$14.49 million, and the \$5,000,000 jurisdictional threshold is easily
9 satisfied, without counting the value of any other form of relief Plaintiffs seek here.

10 21. Although no more is needed, it is also true that “special” or “punitive”
11 damages are treated as part of the amount in controversy for purposes of removal.
12 “Where both actual and punitive damages are recoverable under a complaint each
13 must be considered to the extent claimed in determining jurisdictional amount.”
14 *Bell v. Preferred Life Assurance Soc’y*, 328 U.S. 238, 240 (1943). *See also*
15 *Amezcu*, 2009 WL 1190553, at *3 (stating that claims for punitive damages are
16 generally considered part of the amount in controversy, provided that the underlying
17 compensatory damages are not “speculative”); *Coren v. Mobil Entm’t, Inc.*, No. 08-
18 cv-05264, 2009 WL 764883, at *2 (N.D. Cal. Mar. 19, 2009) (same). In light of
19 Supreme Court precedent, and while Defendants deny that punitive damages are
20 recoverable in any amount, Plaintiffs’ FAC puts them “in controversy” and it is
21 reasonable to assume that Plaintiffs will seek to recover punitive damages equal to
22 at least four times the amount of actual damages. *See State Farm Mut. Auto. Ins.*

23 ² *See also Andrews v. Metro North Commuter R. Co.*, 882 F.2d 705, 707 (2d Cir.
24 1989) (“The amendment of a pleading does not make it any less the admission of the
25 party.”); *Reichert v. General Ins. Co.*, 68 Cal. 2d 822, 836 (1968) (in California,
26 “[t]he doctrine of judicial admissions is not limited to verified complaints . . . but
27 applies to unverified complaints as well”); *Friedberg v. Friedberg*, 9 Cal. App. 3d
28 745, 761 (1970) (party amending pleading to suppress damaging admission in the
original pleading will be held to damaging admission, unless original statement was
due to mistake, inadvertence, or an inadequate knowledge of facts).

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1 *Co. v. Campbell*, 538 U.S. 408, 425 (2003) (recognizing that the Court has upheld
2 punitive damages awards up to four times the amount of compensatory damages).

3 22. Accordingly, based on Plaintiffs' own allegations in the FAC and the
4 Complaint, and the various forms of relief sought against Defendants, there are
5 reasonable grounds to conclude that Plaintiffs have put at least \$5,000,000 in
6 controversy. At minimum, it is "more likely than not" that the amount in
7 controversy exceeds \$5,000,000. *See Guglielmino*, 506 F.3d at 699 (9th Cir. 2007);
8 *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996) (stating that
9 it need only be "more likely than not" that the amount in controversy exceeds
10 required jurisdictional minimum). The CAFA jurisdictional requirement for
11 removing a mass action is thus met.

12 23. At Least One Plaintiff With More than \$75,000 in Controversy.
13 Moreover, at least one Plaintiff meets the \$75,000 jurisdictional threshold for
14 traditional diversity jurisdiction, as required under 28 U.S.C. section
15 1332(d)(11)(B). *See Abrego Abrego v. Dow Chemical Co.*, 443 F.3d 676, 689 (9th
16 Cir. 2006); Second Gronert Declaration ¶ 5, 6.

17 CAFA Exceptions Do Not Apply

18 24. Although Defendants deny that it is their burden to show that none of
19 the exceptions to jurisdiction in 28 U.S.C. sections 1332(d)(11) apply, none do. *See*
20 *Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1019 ("The structure of the statute and
21 the long-standing rule on proof of exceptions to removal dictate that the party
22 seeking remand bears the burden of proof as to any exception under CAFA.").

23 25. This action does not fit within any of the exceptions set forth in 28
24 U.S.C. section 1332(d)(11)(B)(ii) to an action being a "mass action"; in particular, it
25 is not an action in which all the claims made in the case are asserted on behalf of the
26 general public and not on behalf of individual claimants (*see* 28 U.S.C.
27 §1332(d)(11)(B)(ii)(III)). Likewise, this action does not arise exclusively from
28 events or occurrences in California: Plaintiffs reside not only in California, but also

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1 Nevada, Mississippi, Arizona, Florida, Maryland, Illinois, and Virginia, and allege a
2 conspiracy among multiple defendants regarding loans that were not all negotiated
3 or made in California (*see* 28 U.S.C. §1332(d)(11)(B)(ii)(I)). FAC ¶¶ 150-153, 158-
4 159, 161, 168, 178, 180, 183, 186-187, 195, 201, 203, 206.

5 26. Additionally, although more than two-thirds of the Plaintiffs are, on
6 information and belief, citizens of California, the state in which the State Court
7 Action was filed, *see, supra*, ¶¶ 9-11, mandatory declination of jurisdiction under
8 28 U.S.C. section 1332(d)(4) does not apply.³

9 27. First, the mandatory declination of jurisdiction provision set forth in
10 section 1332(d)(4)(A) does not apply because, *inter alia*, in the preceding three
11 years, a class action was filed asserting the same or similar factual allegations
12 against at least one of the defendants here (America's Servicing Company) on
13 behalf of the same or other persons. *See* 28 U.S.C. § 1332(d)(4)(A)(ii); *HPG Corp.*
14 *v. Countrywide Home Loans*, Case No. 2:10-CV-00945-JST-SS, Docket No. 1,
15 (C.D. Cal. Feb. 8, 2010) (complaint alleging wrongful foreclosure practices and
16 naming defendant America's Servicing Company). *See also, e.g., National*
17 *Organization of Assistance For Homeowners v. Wells Fargo Bank, N.A. et al*, No.
18 8:11-cv-00589-DOC -JC, Docket No. 1, (C.D. Cal. Feb. 8, 2010) (Notice of
19 Removal).

20 28. Second, the mandatory declination of jurisdiction provision set forth in
21 section 1332(d)(4)(B) does not apply because not all of the "primary" defendants are
22 citizens of California, the state in which the State Court Action was filed. Although
23 not defined in CAFA and not squarely addressed by the Ninth Circuit, other courts
24 have defined "primary defendant" to include a defendant "(1) who has the greater

25
26 ³ The discretionary factors in section 1332(d)(3) do not apply because more
27 than one-third of the Plaintiffs are alleged to be citizens of California. 28 U.S.C. §
28 1332(d)(3) (district court "may ... decline jurisdiction ... over class in which greater
than one-third but less than two-thirds" of the plaintiffs are citizens of the state
where the action is filed).

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liability exposure; (2) is most able to satisfy a potential judgment; (3) is sued directly, as opposed to vicariously, or for indemnification or contribution; (4) is the subject of a significant portion of the claims asserted by plaintiffs; or (5) is the only defendant named in one particular cause of action.” *Brook v. UnitedHealth Group, Inc.*, 2007 WL 2827808, *5 (S.D.N.Y. Sept. 27, 2007) (citing cases). Courts also distinguish primary defendants from non-primary defendants as those against whom plaintiffs seek to hold directly, rather than derivatively, liable. *See Corsino v. Perkins*, 2010 WL 317418, *7 (C.D. Cal. Jan. 19, 2010) (“there seems to be a settled judicial understanding of ‘primary defendants’ as those parties having a dominant relation to the subject matter of the controversy, in contrast to other defendants who played a secondary role by merely assisting in the alleged wrongdoing, or who are only vicariously liable”) (quoting *McClendon v. Challenge Financial Investors Corp.*, No. 1:08CV1189, 2009 WL 589245, *13 (N.D. Ohio Mar. 9, 2009)). Finally, “[m]any courts agree that the term the primary defendants means that *all* primary defendants must be citizens of the state concerned.” *Id.* at *5 (internal quotation marks and citations omitted; emphasis added) (citing cases).

29. Here, not all of the primary defendants are California citizens. Defendant EverHome, as explained above, is a citizen of Florida. *See, supra* ¶ 12. Additionally, the FAC alleges that Defendant America’s Servicing Company is an Iowa corporation and that it serviced 30 Plaintiffs’ loans; that American Home Mortgage Servicing Inc. is a Delaware corporation and serviced 16 Plaintiffs’ loans; that Select Portfolio Servicing is a Utah corporation and serviced 12 Plaintiffs’ loans; and that ING Direct is a Delaware corporation and 5 Plaintiffs’ loans. FAC at 3 (caption), ¶¶ 6-62, 174-178, 193, 201. On information and belief, none of the principal places of business (for corporations and non-bank defendants) or home offices (for national bank defendants) for these defendants are located in California. At least 66 of the Plaintiffs have thus raised claims against, and seek recovery directly from, these non-California Defendants. Accordingly, many of the primary

1 defendants are not citizens of California, and this exception to the court's
2 jurisdiction does not apply.

3 30. The exceptions in 28 U.S.C. section 1332(d)(5) and (9) also do not
4 apply here. The exceptions in section 1332(d)(5) apply where a State, State official,
5 or State entity is a party or where there are less than 100 plaintiffs. The exceptions
6 in section 1332(d)(9) apply to actions that solely involve specific claims related to
7 (1) covered securities as defined by the Securities Act of 1933 and the Securities
8 Exchange Act of 1934, (2) internal affairs or corporate governance, and (3) rights,
9 duties and obligations in the securities.

10 31. Therefore, because this case meets the requirements for a "mass
11 action," including the requirements of 28 U.S.C. section 1332(d)(2)-(10), it is a
12 "mass action" removable under CAFA.

13 **III. PROCEDURAL REQUIREMENTS FOR REMOVAL**

14 32. Removal to Proper Court. This Court is part of the "district and
15 division" embracing the place where this action was filed—Santa Ana, California.
16 See 28 U.S.C. §§ 1441(a)-(b), 1446(a). Venue is proper in this district pursuant to
17 28 U.S.C. section 1391.

18 33. Removal is Timely. Defendant first received notice of this action
19 under 28 U.S.C. section 1446(b) when it was served with the FAC on March 21,
20 2011. This Notice of Removal is filed within thirty days after Defendant's receipt
21 of the initial pleading alleging a basis for removal as required by 28 U.S.C. section
22 1446(b), and the removal is proper based upon original jurisdiction. Therefore, the
23 requirements of 28 U.S.C. section 1441(a) and (c) are met in that the entire case may
24 be removed to this Court.

25 34. Consent to Removal. For a removal under CAFA, unanimous consent
26 of all Defendants is not required. 28 U.S.C. § 1453(b).

27 35. Notice. Pursuant to the provisions of 28 U.S.C. section 1446,
28 Defendants will promptly serve on Plaintiffs' counsel a Notice of Removal to All

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1 Adverse Parties, a true and correct copy of which (without exhibits) is attached
2 hereto as **Exhibit 6**. Defendant will also promptly file with the Clerk of the
3 Superior Court of the State of California, County of Orange, and serve on adverse
4 parties' counsel, a Notice of Filing of Notice of Removal to Federal Court, a true
5 and correct copy of which (without exhibits) is attached hereto as **Exhibit 7**.

6 36. Pleadings and Process. A copy of the Complaint and all other
7 pleadings and papers received by Defendants and pending in the Superior Court of
8 the State of California, County of Orange, is attached hereto as **Exhibit 3**.

9 37. Signature. This Notice of Removal is signed pursuant to Federal Rule
10 of Civil Procedure 11. *See* 28 U.S.C. § 1446(a).

11 38. Bond and Verification. Pursuant to section 1016 of the Judicial
12 Improvements and Access to Justice Act of 1988, no bond is required in connection
13 with this Notice of Removal. Pursuant to section 1016 of the Act, this Notice need
14 not be verified.

15 39. Based upon the foregoing, this Court has jurisdiction over this matter
16 pursuant to 28 U.S.C. section 1332(d), and the claims should be adjudicated in this
17 Court, as the action is properly removed thereto under 28 U.S.C. sections 1441,
18 1446, and 1453.

19 40. In the event that Plaintiffs file a motion for remand, or the Court
20 considers remand *sua sponte*, Defendants respectfully request the opportunity to
21 submit such additional argument or evidence in support of removal as may be
22 appropriate.

1 WHEREFORE, this action should proceed in the United States District Court
2 for the Central District of California, as an action properly removed thereto.

3
4 Respectfully submitted,

5
6 Dated: April 20, 2011

7 By: 
8 STEVEN A. ELLIS
9 *sellis@goodwinprocter.com*
10 ALISON M. NORRIS
11 *anorris@goodwinprocter.com*
12 SHANNA M. RAMSOWER
13 *sramsower@goodwinprocter.com*
14 **GOODWIN PROCTER LLP**

15 Attorneys for Defendants:
16 *EverHome Mortgage Company, sued in*
17 *that name and as Alliance Mortgage*
18 *Company dba BNY Mortgage*

19
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27
28
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Los Angeles, California 90017

Exhibit 1

1 ROY CHESTER DICKSON, ESQ, SBN 105583
2 Law Offices of Dickson & Associates
3 2323 N. Tustin Avenue Suite I
4 Santa Ana, CA 92705
5 Tel. 1 (888) 777-9489
6 Fax. 1 (888) 503-2119
7 E-mail: lawsuit@homeownersclassaction.org

8 Attorneys for Plaintiffs

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

02/07/2011 at 10:50:29 AM
Clerk of the Superior Court
By Maarit H Nordman, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

Judge David C. Velasquez

Case No. 30-2011-00447677-CU-OR-CXC

COMPLAINT:

NATIONAL ORGANIZATION OF
ASSISTANCE FOR HOMEOWNERS OF
CALIFORNIA a dba FINANCIAL WELLNESS
FOR HOMEOWNERS OF ORANGE COUNTY
CORPORATION a Non-Profit Homeowner
Organization representing Individual Members;
JAIME ACIO; DIVINA ARAGON; ARACELI
ARREOLA; BRUCE BANH; ROGER
BARROW; PATRICIA CAMPOVERDE;
PAULINE CANAS; RUSTICO CORPUZ;
ANTONIO CUELLAR; TRAN DAO; THOMAS
DIEP; DARIO DRAKE; ARNOLD DYSICO;
LYDIA EDEJER; DELFIN FAVORITO; JAIME
GUINTO; CARMEN GUTIERREZ; BEATRICE
HERNANDEZ; TRACY HO; SUSAN HOANG;
DE HUYNH; FELIPE R LOPEZ; MARIO
LOPEZ;; CHRISS NGUYEN; NORA ORTEZA;
ROSITA QUEJADA; LYNN RAMOS;
MILAGROS REOTUTAR; MOISES
RODRIGUEZ; CESAR SOLLA; HUMBERTO
TORRES ARREOLA; KHEO TRAN; MARIA
TRUJILLO; RAFAEL VASQUEZ; ANA
CALMA; FRANCISCO UBANA; JUAN
BALTAZAR; TOMMY ENCINAS; SALVADOR
SASING; BRUCE BANH; BOBBY
CABESAS; EDUARDO FERRER; MARIA
CORTEZ; ALAOLU AKANDE; EFREN AND
VICTORIA RAMIN; EMERITA ROSS;
KHLOEUNG YOU;; MINH LY; JOSE CRUZ;
RACHEL LICUANAN; ALBERT SANFORD;

1. **FRAUDULENT
CONCEALMENT [VIOLATION OF CAL.
CIV. CODE §§ 1572, 1709 AND 1710];**
2. **INTENTIONAL
MISREPRESENTATION [VIOLATION
OF CAL. CIV. CODE §§ 1572, 1709 AND
1710];**
3. **NEGLIGENT
MISREPRESENTATION [VIOLATION
OF CAL. CIV. CODE §§ 1572, 1709 AND
1710];**
4. **INVASION OF
CONSTITUTIONAL RIGHT TO
PRIVACY [VIOLATION OF CAL.
CONST., ART. I, § 1];**
5. **VIOLATION OF CALIFORNIA
FINANCIAL INFORMATION PRIVACY
ACT [CAL. FIN. CODE §§ 4050 TO 4060];**
6. **VIOLATION OF CAL., CIVIL
CODE § 2923.5;**

COMPLAINT

1 JESUS OROZCO; MICHAEL MCCARTHY;
 2 MODESTO JAOJOCO; GEORGE ROXAS;
 3 EDEN HERRERA, JAY McREYNOLDS,
 4 RAMON QUIZON, BULMARO
 5 MALDONADO, RODITHA CAMACHO,
 6 IGRID AGRA, MARIA LOURDES
 7 CABREROS, LOTA BAUTISTA,
 8 EVANGELINE BRIGHAM, ARTHUR
 9 LINDSEY, FELICIDAD DIAZ, MARIANO
 10 PINEDA, RODOLFO CAIREL, PLINYLOU
 11 FONDEVILLA, MARIANO TADEO,
 12 MANUEL HERNANDEZ, JOSE MENDEZ,
 13 MARCIA GARCIA, CARLITO BUGAS.
 14 KATHRYN COWAN, MIRIAM ZUNIGA,
 15 PATRICIA DOMINICUS, ISABEL
 16 FERNANDEZ, GLORIA ENRIQUEZ,
 17 JOSELITO FABIONAR, WILFREDO
 18 FUNTANILLA, ROSELLYN ROQUE.
 19 VIRGINIA SEBASTIAN, SENEN
 20 OCHOA, DANNY GARO, ALLISON GORE,
 21 CECILIO GONZALEZ, MANOLO
 22 GONZALES, JEANNIE HA, TIN NGUYEN,
 23 ROEL VILLANUEVA, NICOLAS GARCIA,
 24 NANSHI IGNACIO, AUGUSTO
 25 PAGTAKHAN, RENATO VIRAY, ALICIA
 26 CORNEJO, PABLO KISLANKA, SUZANNE
 27 LOBATO, ZENYMAE HARRINGTON, HIEU
 28 NGUYEN, XIONGH THAO, BOUA THAO,
 MICHAEL PHAN, IRENIO PADILLA,
 MANUEL VILLANEDA, CASSANDRA
 ANDRES, GUADALUPE GALVEZ, CELESTE
 RODGERS, JUDY BARTOLOME, ALLEN
 RICHARDSON, RAMON IILAN, CICERO
 VILLACORTA, MARIA ESQUIVAS,
 JENNIFER FABIA, ROBERTO de ALBA,
 MARTHA VARGAS, VIRGILIO VILANO,
 JOSE BALLESTEROS, MERLITA LAVARIAS,
 VIOLETA MARTINEZ, RICARDO
 ALATORRE, HANG DAN, ASCENCION
 CARILLO, ANTONIO FLORES, MEDINA
 ANGEL, COCKY BULL, VIRGINIA
 PANTALEON, JUAN MANUEL NUNEZ,
 ARACELI ALABEDA, THOMAS VUONG,
 SALVADOR TELLO, AUGUSTIN LUGUE,
 BENJAMIN CAPA, PAZ VERANO, SEUNG
 HEE UM, MARIA LOURDES MAGLUPAY;
 JERROD LLOPIS, ANTONIO ALVE, MARY

7. VIOLATION OF CAL., CIVIL
CODE § 1798.82;

8. UNFAIR COMPETITION
[VIOLATIONS OF CAL. BUS. & PROF.
CODE § 17200 *ET SEQ.*]

[JURY TRIAL DEMANDED]

1 JEAN PISCO,MENANDRO MIRANDA,
 2 SENEN OCHOA, NANCY HYSON individuals,
 3 on behalf of themselves and all others on behalf
 4 of themselves and all others similarly situated,
 ROES149 through 5000, inclusive

Plaintiffs,

vs.

7 AMERICA'S SERVICING COMPANY, a Iowa
 8 corporation; AMERICAN HOME MORTGAGE
 9 SERVICING,INC, a Delaware corporation;
 10 SELECT PORTFOLIO SERVICING, a Utah
 11 corporation; ING DIRECT, a Delaware
 12 corporation, BANK UNITED,FSB, a corporation,
 13 OPTION ONE MORTGAGE, a corporation,
 14 PEOPLE'S CHOICE HOME LOAN INC, a
 15 corporation, BENIFICIAL CALIFORNIA INC, a
 16 corporation, HSBC MORTGAGE
 17 CORPORATION, GATEWAY BANK, PHH
 18 MORTGAGE, CENLAR LOAN
 19 ADMINISTRATION, BAYVIEW LOAN
 20 SERVICES, FIRST FEDERAL BANK of CA,
 21 FIRST FRANKLIN LOAN SERVICES,
 22 SOVEREIGN BANK, MIDWEST LOAN
 23 SERVICES, UNION BANK, BANCO
 24 POPULAR, N.A., PROVIDENT FUNDING
 25 ASSOCIATES, EVERHOME MORTGAGE
 26 COMPANY, AEGIS WHOLESALE CORP.,
 27 WILSHIRE CREDIT UNION, TMST HOME
 28 LOANS, INC, NATIONSTAR MORTGAGE,
 LLC,MOR EQUITY, FREEDOM MORTGAGE
 CORPORATION, CARRINGTON
 MORTGAGE SERVICE, LNG BEACH
 MORTGAGE CO., SUNTRUST MORTGAGE
 INC., PNC FINANCIAL SERVICES, CATHAY
 BANK,HOMECOMINGS FINANCIAL,LLC,
 QUANTUM SERVICING
 CORP.,SPECIALIZED LOAN SERVICING,
 LLC, RCS, VERICREST FINANCIAL INC,
 RESMAE MORTGAGE CORP, CMS,
 DESSERT COMMUNITY BANK,
 CALDIRECT HOME LOAN, GREENPOINT
 MORTGAGE FUNDING,INC, MET LIFE,
 MIRAD FINANCIAL GROUP, VANDERBILT
 MORTGAGE,CAPITAL ONE MORTGAGE,

1 FIRST FEDERAL BANK, GE MONEY BANK,
2 UNIVERSAL AMERICAN MORTGAGE
3 COMPANY OF CA, BREWARD
MORTGAGE, BAYROCK MORTGAGE
CORPORATION, and Does 1 to 1000, inclusive

4
5 Defendants

6 Plaintiffs, and each of them, hereby demand a jury trial and allege as follows;

7
8 INTRODUCTION

9 1. This lawsuit arises from: (i) Defendants' deception in inducing Plaintiffs to
10 enter into mortgages from 2002 through 2007 with the Defendants (defined below in Paragraph
11 8); (ii) Defendants' breach of Plaintiffs' Constitutionally and statutorily protected rights of
12 privacy; and (iii) Defendants' continuing torturous conduct intended to deprive Plaintiffs of their
13 rights and remedies for the foregoing acts, described below.

14
15 2. This action seeks remedies for the foregoing improper activities, including a
16 massive fraud perpetrated upon Plaintiffs and other borrowers by the Defendants that devastated
17 the values of their residences, in most cases resulting in Plaintiffs' loss of all or substantially all
18 of their net worth.

19
20 3. Defendants was among the leading providers of mortgages in California during
21 all times relevant to this Complaint.

22 4. The fraud perpetrated by the Defendants from 2003 through 2007, including by
23 Defendants starting no later than 2007, was willful and pervasive. It begin with simple greed and
24 then accelerated when Defendants discovered that Defendants could not sustain its business,
25 unless it used its size and large market share in California to systematically create false and
26 inflated property appraisals throughout California. Defendants then used these false property
27

1 valuations to induce Plaintiffs and other borrowers into ever-larger loans on increasingly risky
2 terms.

3 5. Hand-in-hand with its fraudulently-obtained mortgages, Defendants with other
4 mortgage companies hatched a plan to "pool" the foregoing mortgages and sell the pools for
5 inflated value. Rapidly, these two intertwined schemes grew into a brazen plan to disregard
6 underwriting standards and fraudulently inflate property values – county-by-county, city-by-city,
7 person-by-person – in order to take business from legitimate mortgage-providers, and moved on
8 to massive securities fraud hand-in-hand with concealment from, and deception of, Plaintiffs and
9 other mortgagees on an unprecedented scale.
10

11 6. From as early as 2004, Defendants' senior management *knew* the scheme
12 would cause a liquidity crisis that would devastate Plaintiffs' home values and net worth. But,
13 they didn't care, because their plan was based on insider trading – pumping for as long as they
14 could and then dumping before the truth came out and Plaintiffs' losses were locked in.
15

16 7. At the very least, at the time of entering into the notes and deeds of trust¹
17 referenced herein with respect to each Plaintiff, Defendants, each Defendant originating a
18 mortgage, each Defendant in the chain of title of the foregoing mortgages and each Defendant
19 servicing the foregoing mortgages and the successors to each of the foregoing (collectively, the
20 "*Defendants*") was bound and obligated to fully and accurately disclose to each borrower,
21 including each Plaintiff herein,, that the mortgage being offered to the Plaintiff was, in fact, part
22 of a massive fraud that Defendants knew would result in the loss of the equity invested by
23 Plaintiff in his home and in severe impairment to Plaintiff's credit rating.
24

25 8. It is now all too clear that this was the ultimate high-stakes fraudulent
26 investment scheme of the last decade. Couched in banking and securities jargon, the deceptive
27
28

1 gamble with consumers' primary assets – their homes – was nothing more than a financial fraud
2 perpetrated by Dependents and others on a scale never before seen. This scheme led directly to a
3 mortgage meltdown in California that was substantially worse than economic problems facing
4 the rest of the United States. From 2008 to the present, Californians' home values decreased by
5 considerably more than most of other areas in the United States as a direct and proximate result
6 of the Dependents' scheme set forth herein. The Defendants Dependents' business premise was
7 to leave the borrowers, including Plaintiffs, holding the bag once Defendants and its executives
8 had cashed in reaping huge salaries and bonuses and selling Defendants' shares based on their
9 inside information, while investors were still buying the increasingly overpriced mortgage pools
10 and before the inevitable denouement. This massive fraudulent scheme was a disaster both
11 foreseen by Defendants and waiting to happen. Defendants knew it, and yet Defendants still
12 induced the Plaintiffs into their scheme without telling them.
13
14

15 9. As a result, Plaintiffs lost their equity in their homes, their credit ratings and
16 histories were damaged or destroyed, and Plaintiffs incurred material other costs and expenses,
17 described herein. At the same time, Defendants took from Plaintiffs and other borrowers billions
18 of dollars in interest payments and fees and generated billions of dollars in profits by selling their
19 loans at inflated values.
20

21 10. Like a drug that requires ever-higher doses to yield the same high, the fraud
22 reached its zenith – or its nadir – when Defendants systematically destroyed California home
23 values county-by-county and then State-wide.
24

25 11. Then, Defendants began to use their customers' most private information for
26 an extra "edge". This use of private information violated the inalienable Constitutional rights
27 accorded to all California citizens. Defendants' violations ranged from the disclosure of the
28

1 most private and confidential information of more than 2.4 million customers, to the outsourcing
 2 and sale of hundreds of thousands of records to bolster their fraudulent scheme, disenfranchising
 3 Californians of their Article, § 1 inalienable rights of privacy, that went far beyond the sale of
 4 Private Information disclosed in the settlement of the Kentucky Class Action (defined below in
 5 Paragraph 270 and described herein).

6
 7 12. Since the time Plaintiffs filed the initial Complaint herein, Defendants'
 8 improper acts have continued, including, *inter alia*: (i) issuing Notices of Default in violation of
 9 Cal. Civil Code §2923.5; (ii) misrepresenting their intention to arrange loan modifications for
 10 Plaintiffs, while in fact creating abusive roadblocks to deprive Plaintiffs of their legal rights; and
 11 (iii) engaging in intrinsic fraud in this Court and in Kentucky by stalling in addressing Plaintiffs'
 12 legitimate requests to cancel notices of default and for loan modifications, and by refusing to
 13 respond, in any way, to Plaintiffs' privacy causes of action.
 14

15 13. In this Class Action Complaint, Plaintiff(s) seek, *inter alia*, the injunction of
 16 various foreclosure and eviction proceedings, for themselves and others similarly situated, based
 17 on the Defendants' routine failure to comply with statutory prerequisites to foreclosure.
 18 Plaintiffs and the class they seek to represent, also seek a determination of the validity of
 19 foreclosure sales held in violation of statutory requirements, together with damages and other
 20 relief.

21 14. The State of California has longstanding, statutorily prescribed non-judicial
 22 foreclosure procedures, with minimal protections for homeowners. *Cal. Civil Code §2924 et*
 23 *seq.* Homes are normally foreclosed pursuant to the statutory power of sale, without a pre-
 24 foreclosure court hearing.

25 15. The law is clear, however, that entities foreclosing on mortgages must strictly
 26 comply with the State's statutory prerequisites to foreclosure. Among other things, as a matter
 27 of black letter law, the entity exercising the right to foreclose must have actual legal authority to
 28 enter the property and/or exercise the power of sale. *Cal. Civil Code §725a, §726*

1 association who will be helping each member retain their homes and be financially well in time;
2 and provide relief to the poor, distressed and underprivileged

3 21. Plaintiffs JAIME ACIO a member of NOAH-CA residing in the State of
4 California, who borrowed money from BNC Mortgage, Inc or its subsidiaries or affiliates
5 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
6 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
7 some other control capacity over processing the loan, with a principle balance of about \$629,816.

9 22. Plaintiffs DIVINA ARAGON a member of NOAH-CA residing in the State of
10 California, who borrowed money from Winstar Mortgage Partners, Inc or its subsidiaries or
11 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
12 California real estate. At all times material hereto, America's Servicing Company has acted as
13 Servicer or some other control capacity over processing the loan, with a principle balance of
14 about \$472,000.

16 23. Plaintiffs ARACELI ARREOLA a member of NOAH-CA residing in the State
17 of California, who borrowed money from Preferred Financial or its subsidiaries or affiliates
18 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
19 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
20 some other control capacity over processing the loan, with a principle balance of about \$523,450.

22 24. Plaintiffs BRUCE BANH a member of NOAH-CA residing in the State of
23 California, who borrowed money from First California Mortgage or its subsidiaries or affiliates
24 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
25 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
26 some other control capacity over processing the loan, with a principle balance of about \$480,000.

1 25. Plaintiffs ROGER BARROW a member of NOAH-CA residing in the State of
2 California, who borrowed money from Option One Mortgage or its subsidiaries or affiliates
3 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
4 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
5 some other control capacity over processing the loan, with a principle balance of about \$539,000.
6

7 26. Plaintiffs PATRICIA CAMPOVERDE a member of NOAH-CA residing in
8 the State of California, who borrowed money from Preferred Financial Mortgage, Inc or its
9 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
10 trust on their California real estate. At all times material hereto, America's Servicing Company
11 has acted as Servicer or some other control capacity over processing the loan, with a principle
12 balance of about \$491,250.
13

14 27. Plaintiffs PAULINE CANAS a member of NOAH-CA residing in the State of
15 California, who borrowed money from Bryco Funding, Inc or its subsidiaries or affiliates
16 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
17 real estate. At all times material hereto, American Home Mortgage Servicing Company, Inc has
18 acted as Servicer or some other control capacity over processing the loan, with a principle
19 balance of about \$361,745.
20

21 28. Plaintiffs RUSTICO CORPUZ a member of NOAH-CA residing in the State
22 of California, who borrowed money from Reunion Mortgage Inc or its subsidiaries or affiliates
23 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
24 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
25 some other control capacity over processing the loan, with a principle balance of about \$605,000.
26
27
28

1 29. Plaintiffs ANTONIO CUELLAR a member of NOAH-CA residing in the
2 State of California, who borrowed money from American Home Mortgage Acceptance, Inc or its
3 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
4 trust on their California real estate. At all times material hereto, American Home Mortgage
5 Servicing Company, Inc has acted as Servicer or some other control capacity over processing the
6 loan, with a principle balance of about \$301,000.

8 30. Plaintiffs TRAN DAO a member of NOAH-CA residing in the State of
9 California, who borrowed money from American Home Mortgage Acceptance Inc or its
10 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
11 trust on their California real estate. At all times material hereto, American Home Mortgage
12 Servicing Company, Inc has acted as Servicer or some other control capacity over processing the
13 loan, with a principle balance of about \$479,116.

15 31. Plaintiffs THOMAS DIEP a member of NOAH-CA residing in the State of
16 California, who borrowed money from American Home Mortgage Acceptance Inc or its
17 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
18 trust on their California real estate. At all times material hereto, American Home Mortgage
19 Servicing Company, Inc has acted as Servicer or some other control capacity over processing
20 the loan, with a principle balance of about \$299,926.

22 32. Plaintiffs DARIO DRAKES a member of NOAH-CA residing in the State of
23 California, who borrowed money from Commonwealth Home Mortgage or its subsidiaries or
24 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
25 California real estate. At all times material hereto, American Home Mortgage Servicing
26

1 Company, Inc has acted as Servicer or some other control capacity over processing the loan, with
2 a principle balance of about \$380,800.

3 33. Plaintiffs ARNOLD DYSICO a member of NOAH-CA residing in the State of
4 California, who borrowed money from First California Mortgage or its subsidiaries or affiliates
5 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
6 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
7 some other control capacity over processing the loan, with a principle balance of about \$746,250.

9 34. Plaintiffs LYDIA EDEJER a member of NOAH-CA residing in the State of
10 California, who borrowed money from DHI Mortgage Company, LTD or its subsidiaries or
11 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
12 California real estate. At all times material hereto, America's Servicing Company has acted as
13 Servicer or some other control capacity over processing the loan, with a principle balance of
14 about \$686,068.

16 35. Plaintiffs DELFIN FAVORITO a member of NOAH-CA residing in the State
17 of California, who borrowed money from Specialized Loan Servicing, LLC or its subsidiaries or
18 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
19 California real estate. At all times material hereto, America's Servicing Company has acted as
20 Servicer or some other control capacity over processing the loan. with a principle balance of
21 about \$110,500.

23 36. Plaintiffs JAIME GUINTO a member of NOAH-CA residing in the State of
24 California, who borrowed money from American Home Mortgage Servicing, Inc or its
25 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
26 trust on their California real estate. At all times material hereto, American Home Mortgage
27

1 Servicing, Inc has acted as Servicer or some other control capacity over processing the loan,
2 with a principle balance of about \$ 425,176.

3 37. Plaintiffs CARMEN GUTIERREZ a member of NOAH-CA residing in the
4 State of California, who borrowed money The Mortgage Store Financial Inc from or its
5 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
6 trust on their California real estate. At all times material hereto, America's Servicing Company
7 has acted as Servicer or some other control capacity over processing the loan, with a principle
8 balance of about \$339,047.00
9

10 38. Plaintiffs BEATRICE HERNANDEZ a member of NOAH-CA residing in the
11 State of California, who borrowed money First National Bank from or its subsidiaries or
12 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
13 California real estate. At all times material hereto, America's Servicing Company has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$605,652.
16

17 39. Plaintiffs TRACY HO a member of NOAH-CA residing in the State of
18 California, who borrowed money Union Federal Bank from or its subsidiaries or affiliates
19 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
20 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
21 some other control capacity over processing the loan, with a principle balance of about \$179,000.
22

23 40. Plaintiffs SUSAN HOANG a member of NOAH-CA residing in the State of
24 California, who borrowed money America's Wholesale Lender from or its subsidiaries or
25 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
26 California real estate. At all times material hereto, America's Servicing Company has acted as
27
28

1 Servicer or some other control capacity over processing the loan, with a principle balance of
2 about \$678,572.

3 41. Plaintiffs DE HUYNH a member of NOAH-CA residing in the State of
4 California, who borrowed money Ameriquet Mortgage from or its subsidiaries or affiliates
5 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
6 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
7 some other control capacity over processing the loan, with a principle balance of about \$272,822.
8

9 42. Plaintiffs FELIPE LOPEZ a member of NOAH-CA residing in the State of
10 California, who borrowed money American Brokers Conduit from or its subsidiaries or
11 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
12 California real estate. At all times material hereto, American Home Mortgage Servicing, Inc. has
13 acted as Servicer or some other control capacity over processing the loan, with a principle
14 balance of about \$555,849.
15

16 43. Plaintiffs MARIO LOPEZ a member of NOAH-CA residing in the State of
17 California, who borrowed money Central Banc Mortgage Corp from or its subsidiaries or
18 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
19 California real estate. At all times material hereto, America's Servicing Company has acted as
20 Servicer or some other control capacity over processing the loan, with a principle balance of
21 about \$335,000.
22

23 44. Plaintiffs ALICIA ANTONIA MALDONADO a member of NOAH-CA
24 residing in the State of California, who borrowed money Bankers West Funding from or its
25 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
26 trust on their California real estate. At all times material hereto, America's Servicing Company
27
28

1 has acted as Servicer or some other control capacity over processing the loan, with a principle
2 balance of about \$357,000.

3 45. Plaintiffs CHRISS NGUYEN a member of NOAH-CA residing in the State of
4 California, who borrowed money Reunion Mortgage Funding from or its subsidiaries or
5 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
6 California real estate. At all times material hereto, America's Servicing Company has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$427,500.
9

10 46. Plaintiffs NORA ORTEZA a member of NOAH-CA residing in the State of
11 California, who borrowed money from Fremont Investment & Loans or its subsidiaries or
12 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
13 California real estate. At all times material hereto, America's Servicing Company has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$589,266.
16

17 47. Plaintiff ROSITA QUIJADA a member of NOAH-CA residing in the State of
18 California, who borrowed money from Option One Mortgage Corp or its subsidiaries or affiliates
19 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
20 real estate. At all times material hereto, American Home Mortgage Servicing, Inc has acted as
21 Servicer or some other control capacity over processing the loan, with a principle balance of
22 about \$651,878.
23

24 48. Plaintiff LYNN RAMOS a member of NOAH-CA residing in the State of
25 California, who borrowed money from American Brokers Conduit or its subsidiaries or affiliates
26 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
27
28

1 real estate. At all times material hereto, American Home Mortgage Servicing, Inc. has acted as
2 Servicer or some other control capacity over processing the loan, with a principle balance of
3 about \$689,651.00.

4 49. Plaintiff MILAGROS REOTUTAR a member of NOAH-CA residing in the
5 State of California, who borrowed money from Resmae Mortgage or its subsidiaries or affiliates
6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
7 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
8 some other control capacity over processing the loan, with a principle balance of about
9 \$600,000.00
10

11 50. Plaintiff MOISES RODRIGUEZ a member of NOAH-CA residing in the State
12 of California, who borrowed money from Shasta Financial Service or its subsidiaries or affiliates
13 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
14 real estate. At all times material hereto, America's Servicing Company has acted as Servicer or
15 some other control capacity over processing the loan, with a principle balance of about
16 \$234,857.97.
17

18 51. Plaintiff CESAR SOLLA a member of NOAH-CA residing in the State of
19 California, who borrowed money from H&R Block Mortgage or its subsidiaries or affiliates
20 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
21 real estate. At all times material hereto, American Home Mortgage Servicing, Inc. has acted as
22 Servicer or some other control capacity over processing the loan, with a principle balance of
23 about \$590,000.00.
24

25 52. Plaintiff HUMBERTO TORRES ARREOLA a member of NOAH-CA
26 residing in the State of California, who borrowed money from First National Bank of Arizona or
27

1 its subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed
2 of trust on her California real estate. At all times material hereto, America's Servicing Company
3 has acted as Servicer or some other control capacity over processing the loan, with a principle
4 balance of about \$183,998.

5
6 53. Plaintiff KHEO TRAN a member of NOAH-CA residing in the State of
7 California, who borrowed money from America's Servicing Company or its subsidiaries or
8 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
9 California real estate. At all times material hereto, America's Servicing Company has acted as
10 Servicer or some other control capacity over processing the loan, with a principle balance of
11 about \$252,760.

12
13 54. Plaintiff MARIA TRUJILLO a member of NOAH-CA residing in the State of
14 California, who borrowed money from First Franklin or its subsidiaries or affiliates between
15 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.
16 At all times material hereto, America's Servicing Company has acted as Servicer or some other
17 control capacity over processing the loan, with a principle balance of about \$207,000.00.

18
19 55. Plaintiff RAFAEL VASQUEZ a member of NOAH-CA residing in the State
20 of California, who borrowed money from American Brokers Conduit or its subsidiaries or
21 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on her
22 California real estate. At all times material hereto, American Home Mortgage Servicing, Inc has
23 acted as Servicer or some other control capacity over processing the loan, with a principle
24 balance of about 464,000.00.

25
26 56. Plaintiff ANA CALMA a member of NOAH-CA residing in the State of
27 California, who borrowed money from Executive Funding UT Inc or its subsidiaries or affiliates
28

1 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
2 real estate. At all times material hereto, American Servicing Company has acted as Servicer or
3 some other control capacity over processing the loan, with a principle balance of about
4 \$466,000.00

5
6 57. Plaintiff FRANCISCO UBANA a member of NOAH-CA residing in the State
7 of California, who borrowed money from Olympia Funding Inc or its subsidiaries or affiliates
8 between January 1, 2003 and December 31, 2007, secured by a deed of trust on their California
9 real estate. At all times material hereto, American Home Mortgage Services Inc has acted as
10 Servicer or some other control capacity over processing the loan, with a principle balance of
11 about \$650,000.00.

12
13 58. Plaintiff JUAN BALTAZAR a member of NOAH-CA residing in the State of
14 California, who borrowed money from WMC Mortgage Corp. or its subsidiaries or affiliates
15 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
16 real estate. At all times material hereto, American Servicing Company has acted as Servicer or
17 some other control capacity over processing the loan, with a principle balance of \$485,035.00

18
19 59. Plaintiff TOMMY ENCINAS a member of NOAH-CA residing in the State of
20 California, who borrowed money from Option One Mortgage Corporation or its subsidiaries or
21 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on her
22 California real estate. At all times material hereto, American Home Mortgage Servicing, Inc has
23 acted as Servicer or some other control capacity over processing the loan, with a principle
24 balance of about \$438,300.00.

25
26 60. Plaintiff SALVADOR SASING a member of NOAH-CA residing in the State
27 of California, who borrowed money from ING BANK, FSB or its subsidiaries or affiliates

1 between January 1, 2003 and December 31, 2007, secured by a deed of trust on their California
2 real estate. At all times material hereto, ING DIRECT has acted as Servicer or some other
3 control capacity over processing the loan, with a principle balance of about \$549,950.00.

4 61. Plaintiff BRUCE BANH a member of NOAH-CA residing in the State of
5 California, who borrowed money from ING Bank FSBct or its subsidiaries or affiliates between
6 January 1, 2003 and December 31, 2007, secured by a deed of trust on her California real estate.
7 At all times material hereto, ING Direct has acted as Servicer or some other control capacity
8 over processing the loan, with a principle balance of about \$352,000.00.

9 62. Plaintiff BOBBY CABESAS a member of NOAH-CA residing in the State of
10 California, who borrowed money from Loan Management Services or its subsidiaries or
11 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on her
12 California real estate. At all times material hereto, SELECT PORTFOLIO SERVICES has acted
13 as Servicer or some other control capacity over processing the loan, with a principle balance of
14 about \$416,331.44

15 63. Plaintiff EDUARDO FERRER are member of NOAH-CA residing in the State
16 of California, who borrowed money from ING DIRECT or its subsidiaries or affiliates between
17 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.
18 At all times material hereto, ING DIRECT has acted as Servicer or some other control capacity
19 over processing the loan, with a principle balance of about \$787,500.00

20 64. Plaintiff MARIA CORTEZ are member of NOAH-CA residing in the State of
21 California, who borrowed money from American Broker Conduit or its subsidiaries or affiliates
22 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
23 real estate. At all times material hereto, American Home Mortgage Services, Inc has acted as
24

1 Servicer or some other control capacity over processing the loan, with a principle balance of
2 about \$396,000.00

3 65. Plaintiff OLAOLU AKANDE are member of NOAH-CA residing in the State
4 of California, who borrowed money from National City Bank or its subsidiaries or affiliates
5 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
6 real estate. At all times material hereto, American Home Mortgage Servicing Inc has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$348,374.00
9

10 66. Plaintiff EFREN RAMIN are member of NOAH-CA residing in the State of
11 California, who borrowed money from American Mortgage Network or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, American Home Mortgage Servicing Inc has
14 acted as Servicer or some other control capacity over processing the loan, with a principle
15 balance of about \$713,350.00
16

17 67. Plaintiff EMERITA ROSS are member of NOAH-CA residing in the State of
18 California, who borrowed money from Secured Mortgage or its subsidiaries or affiliates between
19 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.
20 At all times material hereto, Select Portfolio Services has acted as Servicer or some other
21 control capacity over processing the loan, with a principle balance of about \$360,000.00
22

23 68. Plaintiff KHLOEUNG YOU are member of NOAH-CA residing in the State
24 of California, who borrowed money from Americas Wholesale Lender or its subsidiaries or
25 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
26 California real estate. At all times material hereto, Select Portfolio Services has acted as
27
28

1 Servicer or some other control capacity over processing the loan, with a principle balance of
2 about \$76,000.00

3 69. Plaintiff KHLOEUNG YOU are member of NOAH-CA residing in the State
4 of California, who borrowed money from Americas Wholesale Lender or its subsidiaries or
5 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, Select Portfolio Servicing Inc has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$85,500.00
9

10 70. Plaintiff MINH LY a member of NOAH-CA residing in the State of California,
11 who borrowed money from Century Mortgage Corporation or its subsidiaries or affiliates
12 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
13 real estate. At all times material hereto, Select Portfolio Services has acted as Servicer or some
14 other control capacity over processing the loan, with a principle balance of about \$440,000.00.
15

16 71. Plaintiff JOSE CRUZ are member of NOAH-CA residing in the State of
17 California, who borrowed money from Master Financial Inc or its subsidiaries or affiliates
18 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
19 real estate. At all times material hereto, Select Portfolio Servicing has acted as Servicer or some
20 other control capacity over processing the loan, with a principle balance of about \$218,738.00
21

22 72. Plaintiff RACHEL LICUANAN are member of NOAH-CA residing in the
23 State of California, who borrowed money from Green Point Mortgage or its subsidiaries or
24 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
25 California real estate. At all times material hereto, Select Portfolio Servicing Inc has acted as
26
27
28

1 Servicer or some other control capacity over processing the loan, with a principle balance of
2 about \$348,374.00

3 73. Plaintiff ALBERT SANFORD are member of NOAH-CA residing in the State
4 of California, who borrowed money from Mirad Financial Group or its subsidiaries or affiliates
5 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
6 real estate. At all times material hereto, Select Portfolio Servicing has acted as Servicer or some
7 other control capacity over processing the loan, with a principle balance of about \$405,000.00

9 74. Plaintiff JESUS OROZCO are member of NOAH-CA residing in the State of
10 California, who borrowed money from Ace Mortgage Funding or its subsidiaries or affiliates
11 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
12 real estate. At all times material hereto, Select Portfolio Servicing has acted as Servicer or some
13 other control capacity over processing the loan, with a principle balance of about \$382,500.00

15 75. Plaintiff MICHAEL MCCARTHY a member of NOAH-CA residing in the
16 State of California, who borrowed money from ING DIRECT or its subsidiaries or affiliates
17 between January 1, 2003 and December 31, 2007, secured by a deed of trust on her California
18 real estate. At all times material hereto, ING Direct has acted as Servicer or some other control
19 capacity over processing the loan with a principle balance of \$600,000.00

21 76. Plaintiff MODESTO JAOJOCO a member of NOAH-CA residing in the State
22 of California, who borrowed money from First Franklin a Division of Nat City Bank or its
23 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
24 trust on their California real estate. At all times material hereto, SELECT PORTFOLIO
25 SERVICES has acted as Servicer or some other control capacity over processing the loan, with a
26 principle balance of about \$560,000.00
27

1 77. Plaintiff GEORGE ROXAS a member of NOAH-CA residing in the State of
2 California, who borrowed money from ING BANK FSB or its subsidiaries or affiliates between
3 January 1, 2003 and December 31, 2007, secured by a deed of trust on their California real
4 estate. At all times material hereto, ING DIRECT has acted as Servicer or some other control
5 capacity over processing the loan, with a principle balance of about \$500,000.00
6

7 78. Plaintiff EDEN HERRERA are member of NOAH-CA residing in the State of
8 California, who borrowed money from Bank United, FSB or its subsidiaries or affiliates between
9 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.
10 At all times material hereto, Bank United, FSB has acted as Servicer or some other control
11 capacity over processing the loan, with a principle balance of about \$410,000.00
12

13 79. Plaintiff JAY McREYNOLDS are member of NOAH-CA residing in the State
14 of California, who borrowed money from Bank United, FSB or its subsidiaries or affiliates
15 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
16 real estate. At all times material hereto, Bank United, FSB has acted as Servicer or some other
17 control capacity over processing the loan, with a principle balance of about \$
18

19 80. Plaintiff RAMON QUIZON are member of NOAH-CA residing in the State of
20 California, who borrowed money from Bank United, FSB or its subsidiaries or affiliates between
21 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.
22 At all times material hereto, Bank United, FSB has acted as Servicer or some other control
23 capacity over processing the loan, with a principle balance of about \$765,407.48
24

25 81. Plaintiff BULMARO MALDONADO are member of NOAH-CA residing in
26 the State of California, who borrowed money from Bank United, FSB or its subsidiaries or
27 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
28

1 California real estate. At all times material hereto, Bank United, FSB has acted as Servicer or
 2 some other control capacity over processing the loan, with a principle balance of about
 3 \$432,000.00.

4 82. Plaintiff RODITHA CAMACHO are member of NOAH-CA residing in the
 5 State of California, who borrowed money from Bank United, FSB or its subsidiaries or affiliates
 6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
 7 real estate. At all times material hereto, Bank United, FSB has acted as Servicer or some other
 8 control capacity over processing the loan, with a principle balance of about \$1,009,095.71
 9

10 83. Plaintiff IGRID AGRA are member of NOAH-CA residing in the State of
 11 California, who borrowed money from Option One Mortgage or its subsidiaries or affiliates
 12 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
 13 real estate. At all times material hereto, Option One Mortgage has acted as Servicer or some
 14 other control capacity over processing the loan, with a principle balance of about \$297,727.03
 15

16 84. Plaintiff MARIA LOURDES CABREROS are member of NOAH-CA
 17 residing in the State of California, who borrowed money from Option One Mortgage or its
 18 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
 19 trust on his California real estate. At all times material hereto, Option One Mortgage has acted
 20 as Servicer or some other control capacity over processing the loan, with a principle balance of
 21 about \$427,450.00.
 22

23 85. Plaintiff LOTA BAUTISTA are member of NOAH-CA residing in the State
 24 of California, who borrowed money from People's Choice Home or its subsidiaries or affiliates
 25 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
 26
 27
 28

1 real estate. At all times material hereto, People's Choice Home has acted as Servicer or some
2 other control capacity over processing the loan, with a principle balance of about \$384,000.00.

3 86. Plaintiff EVANGELINE BRIGHAM are member of NOAH-CA residing in
4 the State of California, who borrowed money from Beneficial California Inc or its subsidiaries
5 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, Beneficial California Inc has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$577,912.26.
9

10 87. Plaintiff ARTHUR LINDSEY are member of NOAH-CA residing in the State
11 of California, who borrowed money from Beneficial California Inc or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, Beneficial California Inc has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$642,382.35.
16

17 88. Plaintiff FELICIDAD DIAZ are member of NOAH-CA residing in the State
18 of California, who borrowed money from Beneficial California Inc or its subsidiaries or
19 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
20 California real estate. At all times material hereto, Beneficial California Inc has acted as
21 Servicer or some other control capacity over processing the loan, with a principle balance of
22 about \$426,089.98.
23

24 89. Plaintiff MARIANO PINEDA are member of NOAH-CA residing in the State
25 of California, who borrowed money from Beneficial California Inc or its subsidiaries or
26 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
27
28

1 California real estate. At all times material hereto, Beneficial California Inc has acted as
2 Servicer or some other control capacity over processing the loan, with a principle balance of
3 about \$483,933.97.

4 90. Plaintiff RODOLFO CAIREL are member of NOAH-CA residing in the State
5 of California, who borrowed money from HSBC Mortgage Corp or its subsidiaries or affiliates
6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
7 real estate. At all times material hereto, HSBC Mortgage Corp has acted as Servicer or some
8 other control capacity over processing the loan, with a principle balance of about \$395087.81.
9

10 91. Plaintiff PLINYLOU FONDEVILLA are member of NOAH-CA residing in
11 the State of California, who borrowed money from Wilmington Finance or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, HSBC Mortgage Corp has acted as Servicer
14 or some other control capacity over processing the loan, with a principle balance of about
15 \$360,000.00
16

17 92. Plaintiff MARIANO TADEO are member of NOAH-CA residing in the State
18 of California, who borrowed money from Household Finance Corporation or its subsidiaries or
19 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
20 California real estate. At all times material hereto, HSBC Mortgage Corp has acted as Servicer
21 or some other control capacity over processing the loan, with a principle balance of about
22 \$407,991.98.
23

24 93. Plaintiff MANUEL HERNANDEZ are member of NOAH-CA residing in the
25 State of California, who borrowed money from Fieldstone Mortgage Company or its
26 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
27

1 trust on his California real estate. At all times material hereto, HSBC Mortgage Corp has acted
2 as Servicer or some other control capacity over processing the loan, with a principle balance of
3 about \$231,920.00.

4 94. Plaintiff JOSE MENDEZ are member of NOAH-CA residing in the State of
5 California, who borrowed money from HSBC Mortgage Corp or its subsidiaries or affiliates
6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
7 real estate. At all times material hereto, HSBC Mortgage Corp has acted as Servicer or some
8 other control capacity over processing the loan, with a principle balance of about \$470,287.00.

9 95. Plaintiff MARCIA GARCIA are member of NOAH-CA residing in the State
10 of California, who borrowed money from Home American Credit, Inc or its subsidiaries or
11 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
12 California real estate. At all times material hereto, HSBC Mortgage Corp has acted as Servicer
13 or some other control capacity over processing the loan, with a principle balance of about
14 \$372,000.00.

15 96. Plaintiff CARLITO BUGAS are member of NOAH-CA residing in the State
16 of California, who borrowed money from CTW Financial Services or its subsidiaries or
17 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
18 California real estate. At all times material hereto, Gateway Bank has acted as Servicer or some
19 other control capacity over processing the loan, with a principle balance of about \$367,667.32.

20 97. Plaintiff KATHRYN COWAN are member of NOAH-CA residing in the State
21 of California, who borrowed money from PHH Mortgage or its subsidiaries or affiliates between
22 January 1, 2003 and December 31, 2007, secured by a deed of trust on his California real estate.

1 At all times material hereto, PHH Mortgage has acted as Servicer or some other control capacity
2 over processing the loan, with a principle balance of about \$591,639.92.

3 98. Plaintiff MIRIAM ZUNIGA are member of NOAH-CA residing in the State
4 of California, who borrowed money from Landmark Home Mortgage Inc or its subsidiaries or
5 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, PHH Mortgage has acted as Servicer or some
7 other control capacity over processing the loan, with a principle balance of about \$540,000.00.

9 99. Plaintiff PATRICIA DOMINICUS are member of NOAH-CA residing in the
10 State of California, who borrowed money from Long Mortgage Company or its subsidiaries or
11 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
12 California real estate. At all times material hereto, Cenlar Loan Administration has acted as
13 Servicer or some other control capacity over processing the loan, with a principle balance of
14 about \$443,423.61.

16 100. Plaintiff ISABEL FERNANDEZ are member of NOAH-CA residing in the
17 State of California, who borrowed money from Interbay Funding,LLC or its subsidiaries or
18 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
19 California real estate. At all times material hereto, BayviewLoan Services has acted as Servicer
20 or some other control capacity over processing the loan, with a principle balance of about
21 \$455,000.00

23 101. Plaintiff GLORIA ENRIQUEZ are member of NOAH-CA residing in the
24 State of California, who borrowed money from South Pacific Financial Corporation or its
25 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
26 trust on his California real estate. At all times material hereto, First Federal Bank of California
27

1 has acted as Servicer or some other control capacity over processing the loan, with a principle
2 balance of about \$493,299.65.

3 102. Plaintiff JOSELITO FABIONAR are member of NOAH-CA residing in the
4 State of California, who borrowed money from First Federal Bank of CA or its subsidiaries or
5 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, First Federal Bank of California has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$493,299.65.
9

10 103. Plaintiff WILFREDO FUNTANILLA are member of NOAH-CA residing in
11 the State of California, who borrowed money from First Federal Bank of CA or its subsidiaries
12 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, First Federal Bank of California has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$640,000.00.
16

17 104. Plaintiff ROSELLYN ROQUE are member of NOAH-CA residing in the State
18 of California, who borrowed money from First Federal Bank of CA or its subsidiaries or
19 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
20 California real estate. At all times material hereto, First Federal Bank of California has acted as
21 Servicer or some other control capacity over processing the loan, with a principle balance of
22 about \$295,520.28.
23

24 105. Plaintiff VIRGINIA SEBASTIAN are member of NOAH-CA residing in the
25 State of California, who borrowed money from First Federal Bank of CA or its subsidiaries or
26 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
27
28

1 California real estate. At all times material hereto, First Federal Bank of California has acted as
2 Servicer or some other control capacity over processing the loan, with a principle balance of
3 about \$448,000.00.

4 106. Plaintiff SENEN OCHOA are member of NOAH-CA residing in the State of
5 California, who borrowed money from First Franklin Loan Services or its subsidiaries or
6 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
7 California real estate. At all times material hereto, First Franklin Loan Services has acted as
8 Servicer or some other control capacity over processing the loan, with a principle balance of
9 about \$504,000.00.
10

11 107. Plaintiff DANNY GARO are member of NOAH-CA residing in the State of
12 California, who borrowed money from Federal Saving Bank or its subsidiaries or affiliates
13 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
14 real estate. At all times material hereto, Sovereign Bank has acted as Servicer or some other
15 control capacity over processing the loan, with a principle balance of about \$493,299.65.
16

17 108. Plaintiff ALLISON GORE are member of NOAH-CA residing in the State of
18 California, who borrowed money from The Member Own FCU or its subsidiaries or affiliates
19 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
20 real estate. At all times material hereto, Midwest Loan Services has acted as Servicer or some
21 other control capacity over processing the loan, with a principle balance of about \$579,715.00.
22

23 109. Plaintiff CECILIO GONZALEZ are member of NOAH-CA residing in the
24 State of California, who borrowed money from Washington Mutual Bank, FA or its subsidiaries
25 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
26 California real estate. At all times material hereto, UNION BANK has acted as Servicer or
27
28

1 some other control capacity over processing the loan, with a principle balance of about
2 \$435,000.00.

3 110. Plaintiff MANOLO GONZALES are member of NOAH-CA residing in the
4 State of California, who borrowed money from Banco Popular,NA or its subsidiaries or
5 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, Banco Popular, NA has acted as Servicer or
7 some other control capacity over processing the loan, with a principle balance of about
8 \$413,954.00.
9

10 111. Plaintiff JEANNIE HA are member of NOAH-CA residing in the State of
11 California, who borrowed money from Provident Funding Associates,LP or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, Provident Funding Associates,LP has acted
14 as Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$253,600.00
16

17 112. Plaintiff JOSELITO FABIONAR are member of NOAH-CA residing in the
18 State of California, who borrowed money from First Federal Bank of CA or its subsidiaries or
19 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
20 California real estate. At all times material hereto, Provident Funding Associates, LP has acted
21 as Servicer or some other control capacity over processing the loan, with a principle balance of
22 about \$493,299.65.
23

24 113. Plaintiff TIN NGUYEN are member of NOAH-CA residing in the State of
25 California, who borrowed money from Concord Mortgage Company or its subsidiaries or
26 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
27
28

1 California real estate. At all times material hereto, Provident Funding Associates, LP has acted
2 as Servicer or some other control capacity over processing the loan, with a principle balance of
3 about \$331,617.00.

4 114. Plaintiff ROEL VILLANUEVA are member of NOAH-CA residing in the
5 State of California, who borrowed money from Provident Funding Associates, LP or its
6 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
7 trust on his California real estate. At all times material hereto, Provident Funding Associates, LP
8 has acted as Servicer or some other control capacity over processing the loan, with a principle
9 balance of about \$484,000.00.
10

11 115. Plaintiff NICOLAS GARCIA are member of NOAH-CA residing in the State
12 of California, who borrowed money from Opteum Financial Services, LLC or its subsidiaries or
13 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
14 California real estate. At all times material hereto, Everhome Mortgage Com has acted as
15 Servicer or some other control capacity over processing the loan, with a principle balance of
16 about \$415,000.00.
17

18 116. Plaintiff NANSHI IGNACIO are member of NOAH-CA residing in the State
19 of California, who borrowed money from Aegis Wholesale Corp or its subsidiaries or affiliates
20 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
21 real estate. At all times material hereto, Aegis Wholesale Corp has acted as Servicer or some
22 other control capacity over processing the loan, with a principle balance of about \$400,000.00.
23

24 117. Plaintiff AUGUSTO PAGTAKHAN are member of NOAH-CA residing in
25 the State of California, who borrowed money from BC Bancorp or its subsidiaries or affiliates
26 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
27
28

1 real estate. At all times material hereto, Wilshire Credit Corporation has acted as Servicer or
2 some other control capacity over processing the loan, with a principle balance of about
3 \$749,999.00.

4 118. Plaintiff RENATO VIRAY are member of NOAH-CA residing in the State of
5 California, who borrowed money from community Lending, Inc or its subsidiaries or affiliates
6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
7 real estate. At all times material hereto, Wilshire Credit Corporation has acted as Servicer or
8 some other control capacity over processing the loan, with a principle balance of about
9 \$491,250.00.
10

11 119. Plaintiff ALICIA CORNEJO are member of NOAH-CA residing in the State
12 of California, who borrowed money from First Street Financial Inc or its subsidiaries or
13 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
14 California real estate. At all times material hereto, Wilshire Credit Corporation has acted as
15 Servicer or some other control capacity over processing the loan, with a principle balance of
16 about \$577,583.01.
17

18 120. Plaintiff PABLO KISLANKA are member of NOAH-CA residing in the State
19 of California, who borrowed money from Transnational Financial Network or its subsidiaries or
20 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
21 California real estate. At all times material hereto, TMST Home Loans Inc has acted as Servicer
22 or some other control capacity over processing the loan, with a principle balance of about
23 \$620,000.00
24

25 121. Plaintiff PABLO KISLANKA are member of NOAH-CA residing in the State
26 of California, who borrowed money from Wells Fargo Bank, NA or its subsidiaries or affiliates
27
28

1 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
2 real estate. At all times material hereto, TMST Home Loans Inc has acted as Servicer or some
3 other control capacity over processing the loan, with a principle balance of about \$800,00.00

4 122. Plaintiff SUZANNE LOBATO are member of NOAH-CA residing in the
5 State of California, who borrowed money from Guaranty Residential Lending, Inc or its
6 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
7 trust on his California real estate. At all times material hereto, Nationstar Mortgage LLC has
8 acted as Servicer or some other control capacity over processing the loan, with a principle
9 balance of about \$278,000.00.
10

11 123. Plaintiff ZENY MAE HARRINGTON are member of NOAH-CA residing in
12 the State of California, who borrowed money from Nationstar Mortgage LLC or its subsidiaries
13 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
14 California real estate. At all times material hereto, Nationstar Mortgage LLC has acted as
15 Servicer or some other control capacity over processing the loan, with a principle balance of
16 about \$540,000.00
17

18 124. Plaintiff HIEU NGUYEN are member of NOAH-CA residing in the State of
19 California, who borrowed money from Wilmington Finance, Inc or its subsidiaries or affiliates
20 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
21 real estate. At all times material hereto, MOR Equity has acted as Servicer or some other
22 control capacity over processing the loan, with a principle balance of about \$441,750.00
23

24 125. Plaintiff XIONGH THAO are member of NOAH-CA residing in the State of
25 California, who borrowed money from Nationstar Mortgage LLC or its subsidiaries or affiliates
26 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
27

1 real estate. At all times material hereto, Freedom Mortgage Corporation has acted as Servicer or
2 some other control capacity over processing the loan, with a principle balance of about
3 \$280,780.00.

4 126. Plaintiff BOUA THAO are member of NOAH-CA residing in the State of
5 California, who borrowed money from National City Bank or its subsidiaries or affiliates
6 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
7 real estate. At all times material hereto, Freedom Mortgage Corp has acted as Servicer or some
8 other control capacity over processing the loan, with a principle balance of about \$285,000.00
9

10 127. Plaintiff MICHAEL PHAN are member of NOAH-CA residing in the State of
11 California, who borrowed money from Fremont Investment & Loan or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, Carrington Mortgage Service has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of
15 about \$475,000.00
16

17 128. Plaintiff IRENEO PADILLA are member of NOAH-CA residing in the State
18 of California, who borrowed money from Long Beach Mortgage Co or its subsidiaries or
19 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
20 California real estate. At all times material hereto, Long Beach Mortgage Co has acted as
21 Servicer or some other control capacity over processing the loan, with a principle balance of
22 about \$441,338.92.
23

24 129. Plaintiff MANUEL VILLANEDA are member of NOAH-CA residing in the
25 State of California, who borrowed money from SunTrust Mortgage Inc or its subsidiaries or
26 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
27
28

1 California real estate. At all times material hereto, SunTrust Mortgage Inc has acted as Servicer
2 or some other control capacity over processing the loan, with a principle balance of about
3 \$252,000.00.

4 130. Plaintiff CASSANDRA ANDRES are member of NOAH-CA residing in the
5 State of California, who borrowed money from SunTrust Mortgage Inc or its subsidiaries or
6 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
7 California real estate. At all times material hereto, SunTrust Mortgage Inc has acted as Servicer
8 or some other control capacity over processing the loan, with a principle balance of about
9 \$417,000.00.
10

11 131. Plaintiff GUADALUPE GALVEZ are member of NOAH-CA residing in the
12 State of California, who borrowed money from SunTrust Mortgage Inc or its subsidiaries or
13 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
14 California real estate. At all times material hereto, SunTrust Mortgage Inc has acted as Servicer
15 or some other control capacity over processing the loan, with a principle balance of about
16 \$315,000.00
17

18 132. Plaintiff CELESTE RODGERS are member of NOAH-CA residing in the
19 State of California, who borrowed money from National City Bank or its subsidiaries or affiliates
20 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
21 real estate. At all times material hereto, PNC Financial Services has acted as Servicer or some
22 other control capacity over processing the loan, with a principle balance of about \$317,000.00
23

24 133. Plaintiff JUDY BARTOLOME are member of NOAH-CA residing in the
25 State of California, who borrowed money from BNC Mortgage Inc or its subsidiaries or affiliates
26 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
27

1 real estate. At all times material hereto, PNC BANK has acted as Servicer or some other control
2 capacity over processing the loan, with a principle balance of about \$442,000.00

3 134. Plaintiff ALLEN RICHARDSON are member of NOAH-CA residing in the
4 State of California, who borrowed money from Cathay Bank or its subsidiaries or affiliates
5 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
6 real estate. At all times material hereto, Cathay Bank has acted as Servicer or some other control
7 capacity over processing the loan, with a principle balance of about \$

9 135. Plaintiff ALLEN RICHARDSON are member of NOAH-CA residing in the
10 State of California, who borrowed money from Cathay Bank or its subsidiaries or affiliates
11 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
12 real estate. At all times material hereto, Cathay Bank has acted as Servicer or some other control
13 capacity over processing the loan, with a principle balance of about \$437,679.00

15 136. Plaintiff RAMON IILAN are member of NOAH-CA residing in the State of
16 California, who borrowed money from First Horizon Home Loans or its subsidiaries or affiliates
17 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
18 real estate. At all times material hereto, Homecomings Financial has acted as Servicer or some
19 other control capacity over processing the loan, with a principle balance of about \$350,938.68

21 137. Plaintiff CICERO VILLACORTA are member of NOAH-CA residing in the
22 State of California, who borrowed money from Homecomings Financial, LLC or its subsidiaries
23 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
24 California real estate. At all times material hereto, Homecomings Financial has acted as Servicer
25 or some other control capacity over processing the loan, with a principle balance of about
26 \$542,750.00.
27

1 138. Plaintiff MARIA ESQUIVAS are member of NOAH-CA residing in the State
2 of California, who borrowed money from American Brokers Conduit or its subsidiaries or
3 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
4 California real estate. At all times material hereto, Quantum Servicing Corp has acted as
5 Servicer or some other control capacity over processing the loan, with a principle balance of
6 about \$749,527.00.
7

8 139. Plaintiff JENNIFER FABIA are member of NOAH-CA residing in the State
9 of California, who borrowed money from First Street Financial, Inc or its subsidiaries or
10 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
11 California real estate. At all times material hereto, Quantum Servicing Corp has acted as
12 Servicer or some other control capacity over processing the loan, with a principle balance of
13 about \$578,000.00
14

15 140. Plaintiff ROBERTO de ALBA are member of NOAH-CA residing in the State
16 of California, who borrowed money from Equifirst Corporation or its subsidiaries or affiliates
17 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
18 real estate. At all times material hereto, Specialized Loan Servicing has acted as Servicer or
19 some other control capacity over processing the loan, with a principle balance of about
20 \$427,047.00.
21

22 141. Plaintiff MARTHA VARGAS are member of NOAH-CA residing in the State
23 of California, who borrowed money from Acoustic Home Loan,LLC or its subsidiaries or
24 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
25 California real estate. At all times material hereto, Specialized Loan Servicing has acted as
26
27
28

1 Servicer or some other control capacity over processing the loan, with a principle balance of
2 about \$352,000.00

3 142. Plaintiff VIRGILIO VILANO are member of NOAH-CA residing in the State
4 of California, who borrowed money from SCME Mortgage Bankers, INC or its subsidiaries or
5 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
6 California real estate. At all times material hereto, Specialized Loan Servicing has acted as
7 Servicer or some other control capacity over processing the loan, with a principle balance of
8 about \$445,602.00.
9

10 143. Plaintiff JOSE BALLTEROS are member of NOAH-CA residing in the State
11 of California, who borrowed money from First Horizon Home Loans or its subsidiaries or
12 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
13 California real estate. At all times material hereto, MET Life has acted as Servicer or some other
14 control capacity over processing the loan, with a principle balance of about \$280,792.00.
15

16 144. Plaintiff MERLITA LAVARIAS are member of NOAH-CA residing in the
17 State of California, who borrowed money from Mirad Financial Group or its subsidiaries or
18 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
19 California real estate. At all times material hereto, Mirad Financial Group has acted as Servicer
20 or some other control capacity over processing the loan, with a principle balance of about
21 \$608,000.00.
22

23 145. Plaintiff VIOLETA MARTINEZ are member of NOAH-CA residing in the
24 State of California, who borrowed money from Bayrock Mortgage Corporation or its subsidiaries
25 or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
26 California real estate. At all times material hereto, Vanderbilt Mortgage has acted as Servicer or
27
28

1 some other control capacity over processing the loan, with a principle balance of about
2 \$571,500.00.

3 146. Plaintiff RICARDO ALATORRE are member of NOAH-CA residing in the
4 State of California, who borrowed money from Mortgage IT, Inc or its subsidiaries or affiliates
5 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
6 real estate. At all times material hereto, RCS has acted as Servicer or some other control
7 capacity over processing the loan, with a principle balance of about \$468,000.00.
8

9 147. Plaintiff DAN HANG are member of NOAH-CA residing in the State of
10 California, who borrowed money from Finance America, LLC or its subsidiaries or affiliates
11 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
12 real estate. At all times material hereto, Vericrest Financial, Inc has acted as Servicer or some
13 other control capacity over processing the loan, with a principle balance of about \$455,937.50.
14

15 148. Plaintiff ASCENCION CARILLO are member of NOAH-CA residing in the
16 State of California, who borrowed money from ResMae Mortgage Corp or its subsidiaries or
17 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
18 California real estate. At all times material hereto, ResMae Mortgage Corp has acted as Servicer
19 or some other control capacity over processing the loan, with a principle balance of about
20 \$341,250.00.
21

22 149. Plaintiff ANTONIO FLORES are member of NOAH-CA residing in the State
23 of California, who borrowed money from ResMae Mortgage Corp or its subsidiaries or affiliates
24 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
25 real estate. At all times material hereto, ResMae Mortgage Corp has acted as Servicer or some
26 other control capacity over processing the loan, with a principle balance of about \$197,600.00.
27
28

1 150. Plaintiff ANGEL MEDINA are member of NOAH-CA residing in the State of
2 California, who borrowed money from New Century Mortgage Corp or its subsidiaries or
3 affiliates between January 1, 2003 and December 31, 2007, secured by a deed of trust on his
4 California real estate. At all times material hereto, CMS has acted as Servicer or some other
5 control capacity over processing the loan, with a principle balance of about \$217,600.00.
6

7 151. Plaintiff COCKY BULL are member of NOAH-CA residing in the State of
8 California, who borrowed money from Dessert Community Bank or its subsidiaries or affiliates
9 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
10 real estate. At all times material hereto, Dessert Community Bank has acted as Servicer or some
11 other control capacity over processing the loan, with a principle balance of about \$.
12

13 152. Plaintiff VIRGINIA PANTALEON are member of NOAH-CA residing in the
14 State of California, who borrowed money from GMAC Mortgage dba Cal Direct or its
15 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
16 trust on his California real estate. At all times material hereto, CAL Direct Home Loan has acted
17 as Servicer or some other control capacity over processing the loan, with a principle balance of
18 about \$220,000.00.
19

20 153. Plaintiff Juan MANUEL are member of NOAH-CA residing in the State of
21 California, who borrowed money from Prudential Lending Inc or its subsidiaries or affiliates
22 between January 1, 2003 and December 31, 2007, secured by a deed of trust on his California
23 real estate. At all times material hereto, Greenpoint Mortgage Funding has acted as Servicer or
24 some other control capacity over processing the loan, with a principle balance of about
25 \$584,000.00.
26
27
28

1 154. Plaintiff ARACELI ABELEDA are member of NOAH-CA residing in the
2 State of California, who borrowed money from Greenpoint Mortgage Funding or its
3 subsidiaries or affiliates between January 1, 2003 and December 31, 2007, secured by a deed of
4 trust on his California real estate. At all times material hereto, Greenpoint Mortgage Funding
5 has acted as Servicer or some other control capacity over processing the loan, with a principle
6 balance of about \$420,000.00.
7

8 155. Plaintiffs THOMAS VUONG a member of NOAH-CA residing in the State of
9 California, who borrowed money from Chevy Chase Bank, F.S.B or its subsidiaries or affiliates
10 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
11 real estate. At all times material hereto, Capital One Mortgage has acted as Servicer or some
12 other control capacity over processing the loan, with a principle balance of or about \$932,000.
13

14 156. Plaintiffs SALVADOR TELLO a member of NOAH-CA residing in the State of
15 California, who borrowed money from Chevy Chase Bank, F.S.B or its subsidiaries or affiliates
16 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
17 real estate. At all times material hereto, Capital One Mortgage has acted as Servicer or some
18 other control capacity over processing the loan, with a principle balance of or about \$419,388.66.
19

20 157. Plaintiffs AUGUSTIN LUGUE a member of NOAH-CA residing in the State of
21 California, who borrowed money from B.F. Saul Mortgage Company or its subsidiaries or
22 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
23 California real estate. At all times material hereto, Capital One Mortgage has acted as Servicer
24 or some other control capacity over processing the loan, with a principle balance of or about
25 \$572,850.
26
27
28

1 158. Plaintiffs BENJAMIN CAPA a member of NOAH-CA residing in the State of
2 California, who borrowed money from First Federal Bank of California or its subsidiaries or
3 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
4 California real estate. At all times material hereto, First Federal Bank of California/ West Point
5 has acted as Servicer or some other control capacity over processing the loan, with a principle
6 balance of or about \$458,000.
7

8 159. Plaintiffs PAZ VERANO a member of NOAH-CA residing in the State of
9 California, who borrowed money from GE Money Bank or its subsidiaries or affiliates between
10 January 1, 2002 and December 31, 2007, secured by a deed of trust on their California real
11 estate. At all times material hereto, GE Money Bank has acted as Servicer or some other control
12 capacity over processing the loan, with a principle balance of or about \$648,000.
13

14 160. Plaintiffs SEUNG HEE UM a member of NOAH-CA residing in the State of
15 California, who borrowed money from Universal American Mortgage Company of California or
16 its subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed
17 of trust on their California real estate. At all times material hereto, Universal American
18 Mortgage Company of California has acted as Servicer or some other control capacity over
19 processing the loan, with a principle balance of or about \$406,750.
20

21 161. Plaintiffs SEUNG HEE UM a member of NOAH-CA residing in the State of
22 California, who borrowed money from Westlend Financing, Inc. or its subsidiaries or affiliates
23 between January 1, 2002 and December 31, 2007, secured by a deed of trust on their California
24 real estate. At all times material hereto, Brenward Mortgage has acted as Servicer or some other
25 control capacity over processing the loan, with a principle balance of or about \$384,000.
26
27
28

1 162. Plaintiffs MARIA LOURDES MAGLUPAY a member of NOAH-CA residing in
2 the State of California, who borrowed money from BayRock Mortgage Corporation or its
3 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
4 trust on their California real estate. At all times material hereto, BayRock Mortgage Corporation
5 has acted as Servicer or some other control capacity over processing the loan, with a principle
6 balance of or about \$468,000.
7

8 163. Plaintiffs JERROLD LLOPIS a member of NOAH-CA residing in the State of
9 California, who borrowed money from FIRST FRANKLIN Corporation or its subsidiaries or
10 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
11 California real estate. At all times material hereto, FIRST FRANKLIN Corporation has acted as
12 Servicer or some other control capacity over processing the loan, with a principle balance of or
13 about \$780,000.00.
14

15 164. Plaintiffs ANTONIO ALVE a member of NOAH-CA residing in the State of
16 California, who borrowed money from FIRST FRANKLIN FANKLIN FINANCIAL CORP
17 Corporation or its subsidiaries or affiliates between January 1, 2002 and December 31, 2007,
18 secured by a deed of trust on their California real estate. At all times material hereto, FIRST
19 FRANKLIN Corporation has acted as Servicer or some other control capacity over processing
20 the loan, with a principle balance of or about \$335,200.00.
21

22 165. Plaintiffs MARY JEAN PISCO a member of NOAH-CA residing in the State of
23 California, who borrowed money from Mortgageit, INC or its subsidiaries or affiliates between
24 January 1, 2002 and December 31, 2007, secured by a deed of trust on their California real
25 estate. At all times material hereto, FIRST FRANKLIN Corporation has acted as Servicer or
26
27
28

1 some other control capacity over processing the loan, with a principle balance of or about
2 \$480,000.00.

3 166. Plaintiffs MENANDRO MIRANDA a member of NOAH-CA residing in the
4 State of California, who borrowed money from First Franklin Financial Corp Corporation or its
5 subsidiaries or affiliates between January 1, 2002 and December 31, 2007, secured by a deed of
6 trust on their California real estate. At all times material hereto, FIRST FRANKLIN Corporation
7 has acted as Servicer or some other control capacity over processing the loan, with a principle
8 balance of or about \$452,000.00.
9

10 167. Plaintiffs SENEN OCHOA a member of NOAH-CA residing in the State of
11 California, who borrowed money from FIRST FRANKLIN Corporation or its subsidiaries or
12 affiliates between January 1, 2002 and December 31, 2007, secured by a deed of trust on their
13 California real estate. At all times material hereto, FIRST FRANKLIN Corporation has acted as
14 Servicer or some other control capacity over processing the loan, with a principle balance of or
15 about \$511,032.00.00.
16

17 168. Plaintiffs NANCY HYSON a member of NOAH-CA residing in the State of
18 California, who borrowed money from RBMG, INC or its subsidiaries or affiliates between
19 January 1, 2002 and December 31, 2007, secured by a deed of trust on their California real
20 estate. At all times material hereto, EVERHOME MORTGAGE has acted as Servicer or some
21 other control capacity over processing the loan, with a principle balance of or about \$232,000.00.
22

23 169. The other Plaintiffs, named as ROES 149 through 5000, are similarly situated
24 to Plaintiffs identified above in that they too borrowed money from the Defendants (as defined
25 below) between the dates beginning on January 1, 2002 and ending on December 31, 2007,
26 secured by deeds of trust on their California realty. Further, at all times material hereto,
27
28

1 Defendants have acted as Servicer or in another capacity with respect to loan processing. All of
2 the foregoing secured real estate loans made to Plaintiffs were wrongfully and fraudulently
3 handled and processed by Defendants, resulting in damages.

4 170. Plaintiffs' counsel is aware of and has provided services to the remaining
5 unnamed Roe plaintiffs, each of whom has sustained actual injury. The remaining Roes sue
6 under their names fictitiously because they either wish to maintain their privacy or because
7 Plaintiffs' counsel have not completed the due diligence necessary to properly plead their claims
8 as of the filing of this Complaint. From time-to-time, upon conducting the due diligence and
9 learning the information sufficient to add remaining Roe Plaintiffs to this action, Plaintiffs shall
10 seek leave of Court to amend this Complaint to name these additional Roe Plaintiffs, or will
11 follow such other process as is prescribed by the Court.
12

13 171. An additional persons have contacted counsel or their staffs pertaining to the
14 matters complained of herein. In the event Plaintiffs believe it is in furtherance of judicial
15 economy and justice to all or any of these additional persons to this Complaint, Plaintiffs shall
16 bring a noticed motion to add such parties to this action. In the event Plaintiffs file a separate
17 lawsuit appertaining to all or any of these persons, or such further number as may exist in view
18 of future developments, Plaintiffs shall file all appropriate Notices of Related Cases in
19 accordance with California law, or as otherwise directed by the Court.
20

21 172. At all times material hereto, all Defendants operated through a common plan
22 and scheme designed to conceal the material facts set forth below from Plaintiffs, from the
23 California public and from regulators, either directly or as successors-in-interest for others of the
24 Defendants. The concealment was completed, ratified and/or confirmed by each Defendant
25 herein directly or as a successor -in-interest for another Defendant, and each Defendant
26
27
28

1 performed the tortuous acts as set forth herein for its own monetary gain and as a part of a
2 common plan developed and carried out with the other Defendants, or as a successor-in-interest
3 to a Defendant that did the foregoing.

4
5 173. The true names and capacities of the Defendants listed herein as DOES 2
6 through 1,000 are unknown to Plaintiffs who therefore sue these Defendants by such fictitious
7 names. Each of the DOE Defendants was the agent or each of the other Defendants herein,
8 named or unnamed, and thereby participated in all of the wrongdoing set forth herein. On
9 information and belief, each such Defendant is responsible for the acts, events and concealment
10 set forth herein and is sued for that reason. Upon learning the true names and capacities of the
11 DOE Defendants, Plaintiffs shall amend this Complaint accordingly.

12
13 174. Defendants' public disclosures, as reflected in its filings with the SEC, make
14 clear that Defendants considers itself both a common enterprise operating as a greater whole and
15 without meaningful distinctions as to its operating units, and the successor to Defendants and its
16 subsidiaries.

17
18 175. Plaintiffs are informed and believe, and thereon allege, that: (i) Defendants and
19 its wholly-owned and controlled subsidiaries are liable for all wrongful acts of Defendants prior
20 to the date thereof as the successor-in-interest to Defendants, (ii) Defendants directly and through
21 its subsidiaries and other agents sued herein as Does have continued the unlawful practices of
22 Defendants, including, without limitation thereof, writing fraudulent mortgages as set forth
23 above and concealing wrongful acts that occurred in whole or in part prior thereto, and (iii)
24 Defendants and its subsidiaries are jointly and severally liable as alter egos and as a single,
25 greater unified whole.

26 27 GENERAL FACTS

1 176. The common facts herein include those facts set forth above in the prior
2 sections of this Complaint.

3 177. Under California Civil Code § 1709 it is unlawful to willfully deceived another
4 “with intent to induce him to alter his position to his injury or risk.”
5

6 178. Under California Civil Code § 1710, it a “deceit” to do any one or more of the
7 following: (1) the suggestion, as a fact, of that which is not true, by one who does not believe it
8 to be true; (2) the assertion, as a fact, of that which is not true, by one who has no reasonable
9 ground for believing it to be true; (3) the suppression of a fact, by one who is bound to disclose
10 it, or who gives information of other facts which are likely to mislead for want of communication
11 of that fact, or, (4) a promise, made without any intention of performing it.
12

13 179. Under California Civil Code § 1572, the party to a contract further engages in
14 fraud by committing “any other act fitted to deceive.”

15 180. At the time of entering into the notes and deeds of trust referenced herein with
16 respect to each Plaintiff, the Defendants were bound and obligated to fully and accurately
17 disclose:
18

- 19 a. Who the true lender and mortgagee were.
- 20 b. That to induce a Plaintiff to enter into the mortgage, the Defendants caused the
21 appraised value of Plaintiff’s home to be overstated.
- 22 c. That to disguise the inflated value of Plaintiff’s home, Defendants as orchestrating
23 the over-valuation of homes throughout Plaintiff’s community.
- 24 d. That to induce Plaintiff to enter into a mortgage, the Defendants disregarded their
25 underwriting requirements, thereby causing Plaintiff to falsely believe that
26

1 Plaintiff was financially capable of performing Plaintiff's obligations under the
2 mortgage, when the Defendants knew that was untrue.

3 e. The Defendants not only had the right to securitized and sell Plaintiff's mortgage
4 to third-party investors, but that it specifically planned and intended to do so as to
5 virtually all mortgages at highly-inflated and unsustainable values.
6

7 f. That as to the intended sales:

8 i. The sales would include sales to nominees who were not authorized under
9 law at the time to own a mortgage, including, among others, Mortgage
10 Electronic Registration Systems Inc., a/k/a MERSCORP, Inc. ("MERS"),
11 which according to its website was created by mortgage banking industry
12 participants to be only a front or nominee to "streamline" the mortgage re-
13 sale and securitization process;
14

15 ii. Plaintiff's true financial condition and the true value of Plaintiff's home
16 and mortgage would not be disclosed to investors to whom the mortgage
17 would be sold;
18

19 iii. Defendants intended to sell the mortgage together with other mortgages
20 as to which it also intended not to disclose the true financial condition of
21 the borrowers or the true value of their homes or mortgages;

22 iv. The consideration to be sought from investors would be greater than the
23 actual value of the said notes and deeds of trust; and
24

25 v. The consideration to be sought from investors would be greater than the
26 income stream that could be generated from the instruments event
27 assuming a 0% default rate thereon;
28

- 1 g. That the mortgage would thereby be used as part of a scheme by which the
2 Defendants would bilk investors by selling collateralized mortgage pools at an
3 inflated value.
- 4 h. That, at the time they did the foregoing, the Defendants knew the foregoing would
5 lead to a liquidity crisis and the likely collapse of Defendants;
- 6 i. That the Defendants also knew the foregoing would lead to grave damage to each
7 Plaintiff's property value and thereby result in Plaintiff's loss of the equity
8 Plaintiff invested in his house, as well as damaging Plaintiff's credit rating,
9 thereby causing Plaintiff additional severe financial damage; and
- 10 j. That the Defendants knew at the time of making each loan, but did not disclose to
11 Plaintiffs, that entire communities would become "ghost-town-foreclosure-
12 communities" after a domino effect of foreclosures hit them.

13
14
15 181. When property values started falling – just as Defendants knew would occur –
16 Defendants could no longer continue the pretense, concealment and affirmative
17 misrepresentations. Plaintiffs through their losses, and then also the ultimate banker, the U.S.
18 taxpayer, have footed the bill through TARP and other programs. Still, Defendants continue to
19 ratify the scheme, hide and destroy documents, and travel outside the United States to countries
20 with treaties that do not allow for open discover, including, among others, India and Italy, in
21 order to secrete witnesses and documents to make their scheme more difficult to prove.

22
23 182. Further, in violation of their own underwriting guidelines, Defendants covertly
24 offered Plaintiffs and others loans at a loan-to-value ratio that was unsustainable and without
25 income verification. The Defendants knew, but concealed from Plaintiffs that they knew,
26

1 Plaintiffs would soon be unable to afford the loans once introductory discount interest rates
2 ended, and variable interest and balloon payments kicked in.

3 183. The Defendants knew that when interest payments increased and balloon
4 payments became due, if not before, Plaintiffs and others would begin defaulting on their
5 mortgages and would suffer grievous losses from mortgages for which they were not qualified.
6 Given the inflated appraised values of their residences, even without a decline in property values,
7 few Plaintiffs would be able to refinance or sell their homes without suffering a significant loss.

8 184. The Defendants knew that the scale of the lending – based on inflated property
9 values, without income verification and in violation of numerous other Defendants underwriting
10 guidelines – would lead to widespread declines in property values, thereby putting Plaintiffs and
11 others into *extremis* through which they would lose the equity invested in their homes and have
12 no means of refinancing or selling, other than at a complete loss. That is precisely what
13 happened to Plaintiffs herein.

14 185. The Defendants did not just make misrepresentations and conceal material
15 facts from investors. First, each of the foregoing misrepresentations were made in public
16 documents or forums given wide communication to the public, including Plaintiffs herein.
17 Second, the identical affirmative misrepresentations and concealment pertained to the Plaintiffs,
18 and other borrowers. Defendants had to perpetuate their lies by affirmative misrepresentations
19 and by concealing the truth from Plaintiffs and other borrowers because to do otherwise would
20 mean: (a) immediate wash-back into their investor fraud since Plaintiffs and other borrowers are
21 part of the investor public receiving all other investor communications, and (b) decapitation of
22 the source of the supply of mortgages needed for the scheme. Finally, the concealment from
23 borrowers was absolutely essential because the Defendants knew they would soon be delivering
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1 Plaintiffs' notes and deeds of trust to investors and their representatives at intentionally inflated
2 values as collateral for Defendants' fraudulent securitized pools.

3 186. By not disclosing the truth of their inflated appraisals, lax lending standards,
4 deficient loan portfolio, shaky secondary market collateralized securities, and overall scheme to
5 its borrowers, as set forth above, Defendants not only made them unwitting accomplices, but put
6 them into a no-win situation in which the price of taking a mortgage from Defendants would be -
7 and has been - cascading defaults and foreclosures that have wiped out billions of dollars in
8 equity value, including the equity invested in their homes by Plaintiffs. Cascading foreclosures
9 in entire cities and counties in California leads to unemployment and economic turmoil. All
10 Plaintiffs have been damaged by the foregoing. Despite billions of dollars of taxpayer-funded-
11 relief programs, property values continue to fall and unemployment and underemployment
12 remain terribly high.

13
14
15 187. As defaults increased, the Defendants used it as an opportunity to increase their
16 fees and to punish Plaintiffs and other borrowers. That is why on June 7, 2010, the FTC
17 announced that two Defendants mortgage servicing companies will pay \$108 million to settle
18 FTC charges that they collected excessive fees from cash-strapped borrowers who were
19 struggling to keep their homes. The \$108 million represents one of the largest judgments
20 imposed in an FTC case, and the largest ever in a mortgage servicing case.

21
22 188. As FTC Chairman Jon Leibowitz explained in the FTCs press release
23 announcing the settlement: "Life is hard enough for homeowners who are having trouble paying
24 their mortgage. To have a major loan servicer like Defendants piling on illegal and excessive
25 fees is indefensible."

26
27 189. The FTC press release further explained:

1 According to the complaint filed by the FTC, Defendants' loan-
2 servicing operation deceived homeowners who were behind on
3 their mortgage payments into paying inflated fees – fees that could
4 add up to hundreds or even thousands of dollars. Many of the
5 homeowners had taken out loans originated or funded by
6 Defendants's lending arm, including subprime or
7 "nontraditional" mortgages, such as payment option adjustable rate
8 mortgages, interest-only mortgages, and loans made with little or
9 no income or asset documentation, the complaint states.
10
11 Mortgage servicers are responsible for the day-to-day management
12 of homeowners' mortgage loans, including collecting and crediting
13 monthly loan payments. Homeowners cannot choose their
14 mortgage servicer.
15

16 ---

17 When homeowners fell behind on their payments and were in
18 default on their loans, Defendants ordered property inspections,
19 lawn mowing, and other services meant to protect the lender's
20 interest in the property, according to the FTC complaint. But
21 rather than simply hire third-party vendors to perform the services,
22 Defendants created subsidiaries to hire the vendors. The
23 subsidiaries marked up the price of the services charged by the
24 vendors – often by 100% or more – and Defendants then charged
25 the homeowners the marked-up fees. The complaint alleges that
26 the company's strategy was to increase profits from default-related
27
28

1 service fees in bad economic times. As a result, even as the
2 mortgage market collapsed and more homeowners fell into
3 delinquency, Defendants earned substantial profits by funneling
4 default-related services through subsidiaries that it created solely to
5 generate revenue.
6

7 - - -

8 In addition, in servicing loans for borrowers trying to save their
9 homes in Chapter 13 bankruptcy proceedings, *the complaint*
10 *charges that Defendants made false or unsupported claims to*
11 *borrowers about amounts owed or the status of their loans.*

12 Defendants also failed to tell borrowers in bankruptcy when new
13 fees and escrow charges were being added to their loan accounts.

14 The FTC alleges that after the bankruptcy case closed and
15 borrowers no longer had bankruptcy court protection, Defendants
16 unfairly tried to collect those amounts, including in some cases via
17 foreclosure. [Emphasis supplied]
18

19 190. Based upon the allegations of the FTC set forth in this Complaint, the Plaintiffs
20 believe and thereon allege the same allegations herein.
21

22 191. The Defendants concealed and did not accurately or fully disclose to any
23 Plaintiff herein any of the foregoing facts. Further, Defendants did not disclose or explain their
24 scheme to Plaintiffs at any time. They did the foregoing with the intent to deceive Plaintiffs and
25 the investing public. Plaintiffs did not know the massive scheme Defendants had devised.
26
27
28

1 192. To the contrary, Defendants affirmatively misrepresented its underwriting
2 processes, the value of its mortgages and the fundamental nature of its business model in its
3 press releases, annual report and securities filings, all of which were widely distributed to the
4 public, including Plaintiffs. Defendants intended the public, including Plaintiffs, to rely upon its
5 misrepresentations and made those misrepresentations to create false confidence in Defendants
6 and to further its fraud on borrowers and investors.

8 193. Plaintiffs would never have done business with the Defendants if Defendants
9 had disclosed their scheme. Had the Plaintiffs known the facts concealed from them by
10 Defendants, Plaintiffs would have never entered into bogus and predatory transactions with the
11 Defendants designed only to line the pockets of Defendants and their executives and not to
12 actually and justifiably create value and generate capital from the Plaintiffs' equity investments
13 in their primary residences.

15 194. If the Plaintiffs had later learned the truth, each Plaintiff would have either (a)
16 rescinded the loan transaction under applicable law and/or (b) refinanced the loan transaction
17 with a reputable institution prior to the decline in mortgage values in late 2008. Instead, each
18 Plaintiff reasonably relied on the deceptions of the Defendants in originating their loans and
19 forbearing from exercising their rights to rescind or refinance their loans.

21 195. After entering into the transactions with each Plaintiff herein as alleged herein,
22 the Defendants, with the assistance of the other Defendants herein, sold in securities transactions
23 the notes and deeds of trust pertaining to Plaintiffs' properties. The sales:

- 24 a. Included sales to nominees who were not authorized under law at the time to own
25 a mortgage, including, among others, MERS;
26

- b. Involved misrepresentations by Defendants to investors and concealment from investors of Plaintiff's true financial condition and the true value of Plaintiff's home and mortgage;
- c. Involved misrepresentations by Defendants to investors and concealment from investors of the true financial condition of other borrowers and the true value of their homes and mortgages also included in the pools;
- d. Were for considerations greater than the actual value of the said notes and deeds of trust;
- e. Were for consideration greater than the income stream that could be generated from the instruments even assuming a 0% default rate thereon; and
- f. Were part of a scheme by which the Defendants bilked investors by selling collateralized mortgage pools at an inflated value.

196. Defendants hid from Plaintiffs that Defendants was engaged in an effort to increase market share and sustain revenue generation through unprecedented expansions of its underwriting guidelines, taking on ever-increasing credit risk.

197. At the time the Defendants induced Plaintiffs to enter into mortgages, they knew their scheme would lead to a liquidity crisis and grave damage to each Plaintiff's property value and thereby result in each Plaintiff's loss of the equity such Plaintiff invested in his house, as well as damaging the Plaintiff's credit rating, thereby causing the Plaintiff additional severe financial damage consisting of the foregoing damages and damages described elsewhere in this Complaint. The Defendants concealed the foregoing from Plaintiffs, California consumers and regulators, initially at Defendants' direction and thereafter at Defendants' direction.

1 198. Based upon the Defendants' position as a leading financial institution and
2 thereafter Defendants' position as a leading financial institution and the public statements made
3 by the Defendants and otherwise by Defendants, including in their securities filings, the
4 Plaintiffs reasonably relied upon the statements made by the foregoing and reasonably relied that
5 no material information necessary to their decisions would be withheld or incompletely,
6 inaccurately or otherwise improperly disclosed. In so relying, the Plaintiffs were gravely
7 damaged as described herein. The Defendants acted willfully with the intention to conceal and
8 deceive in order to benefit there from at the expense of the Plaintiffs.
9

10 199. The other Defendants followed Defendants' direction because they are either
11 subsidiaries of Defendants, directly or indirectly owned, controlled and dominated by
12 Defendants, or because they are in an unequal economic and/or legal relationship with
13 Defendants by which they are beholden to Defendants and are thereby controlled and dominated
14 by Defendants.
15

16 200. As a proximate and foreseeable result of the Defendants sale of the notes and
17 deeds of trust regarding Plaintiffs' properties and others similarly situated for more than the
18 actual value of such instruments, securitization pools lacked the cash flow necessary to maintain
19 the securitization pools in accordance with their indentures. The unraveling of the Defendants'
20 fraudulent scheme has materially depressed the price of real estate throughout California,
21 including the real estate owned by Plaintiffs, resulting in the losses to Plaintiffs described herein.
22

23 201. After certain Plaintiffs filed the Complaint herein, Defendants, under direction
24 of Defendants, covertly embarked a supplemental scheme to browbeat Plaintiffs into foregoing
25 and waiving rights. That scheme included, among other things, advising Plaintiffs that
26
27
28

1 Defendants would consider loan modifications, while at the same time covertly to obfuscate,
2 badger, delay and divert the Plaintiffs from enforcing their rights.

3 202. Defendant did not provide the information sought by Plaintiffs, did not
4 facilitate the process of loan modifications and did not comply, in any material respect, with the
5 spirit and intent of loan modifications requirements embodied in Cal. Civil Code § 2923.5 *et*.
6 *seq.*, or the federal Helping Families Save Their Homes Act of 2009.

8 203. At the same time, Defendants continue to issue notices of default in violation
9 of Cal. Civil Code § 2923.5 and despite assurances that the failures will be remedied, corrective
10 action is dilatory, at best.

11 204. The foregoing is part of the ratification of the Defendants bad acts by
12 Defendants. Since acquiring Defendants in 2008, Defendants has accepted the benefits of
13 Defendants' bad acts and ratified and adopted those acts with a concerted campaign to suppress
14 Plaintiffs and others who seek to enforce their rights. That campaign includes, among other
15 components to be established through discovery:
16

17 a. The intentional use of Indian service centers and others to frustrate Plaintiffs and
18 other borrowers seeking information about their mortgages and loan
19 modifications.
20

21 b. Intentional violation of Cal. Civil Code §
22

23 205. Defendants and the other defendants failed ever to inform this Court of the
24 Kentucky Class Action, thereby when Defendants had failed to responsively plead to that cause
25 of action herein when Defendants had failed to responsively plead to that cause of action for
26 more than a year. Despite numerous motions, hearings, mediation and settlement conferences,
27 Defendants never disclosed to any of Plaintiffs, their counsel or the Court the existence of the
28

1 Kentucky Class Action or the Kentucky Settlement, even though they were fully aware of the
 2 foregoing and fully aware that the Kentucky Settlement purported to compromise and settle the
 3 privacy claims of Plaintiffs, even though Californians have unique and fundamental rights of
 4 privacy not enjoyed by other Americans.

5
 6 206. By the foregoing acts, Defendants is intentionally making it difficult or
 7 impossible for victims of Defendants' massive mortgage fraud and privacy violations to enforce
 8 their rights. By taking these steps, Defendants accepts the benefits of Defendants' wrongful
 9 behavior and ratifies and adopts that behavior.

10
 11 **FIRST CAUSE OF ACTION**
(By All Plaintiffs – Fraudulent Concealment – Against All Defendants)

12 207. Paragraphs 1 through 206 are hereby incorporated by reference as though fully
 13 set forth herein.

14 208. Defendants had exclusive knowledge not accessible to Plaintiffs of material
 15 facts pertaining to its mortgage lending activities that it did not disclose to Plaintiffs at the time it
 16 was entering into contracts with Plaintiffs. As more fully alleged herein, these facts included
 17 false appraisals, violation of Defendants' underwriting guidelines, the intent to sell Plaintiffs'
 18 mortgages above their actual values to bilk investors and knowledge that the scheme would
 19 result in a liquidity crisis that would gravely damage Plaintiffs.
 20

21 209. Further, in connection with entering into contracts with Plaintiffs, Defendants
 22 made partial (though materially misleading) statements and other disclosures as to their
 23 prominence and underwriting standards in the public releases, on their web site, in their literature
 24 and at their branch offices. However, Defendants suppressed material facts relating thereto as set
 25 forth above. Defendants knew that the mortgages would be "pooled" and "securitized sale".
 26 Defendants also knew that within a foreseeable period, its investors would discover that
 27
 28

1 Defendants' mortgagees could not afford their loans and the result would be foreclosures and
2 economic devastation. It was the movie *The Sting* in real life, with real lives and with people
3 whose homes were often times their only asset.

4
5 210. Defendants was more dependent than many of its competitors on selling loans
6 it originated into the secondary mortgage market, an important fact it disclosed to investors.
7 Defendants expected that the deteriorating quality of the loans that Defendants was writing, and
8 the poor performance over time of those loans, would ultimately curtail the company's ability to
9 sell those loans in the secondary mortgage market. Each of the foregoing was aware, but
10 Defendants failed to disclose, that Defendants' business model was unsustainable.

11
12 211. Defendants misled borrowers, potential borrowers and investors by failing to
13 disclose substantial negative information regarding Defendants' loan products, including:

- 14 a. The increasingly lax underwriting guidelines used by the company in originating
15 loans;
- 16 b. The company's pursuit of a "matching strategy" in which it matched the terms of
17 any loan being offered in the market, even loans offered by primarily subprime
18 originators;
- 19 c. The high percentage of loans it originated that were outside its own already
20 widened underwriting guidelines due to loans made as exceptions to guidelines;
- 21 d. Defendants' definition of "prime" loans included loans made to borrowers with
22 FICO scores well below any industry standard definition of prime credit quality;
23 and
24 e. Defendants' subprime loans had significant additional risk factors, beyond the
25 subprime credit history of the borrower, associated with increased default rates.
26
27
28

1 including reduced documentation, stated income, piggyback second liens, and
2 LTVs in excess of 95%.

3 212. Defendants knew this negative information from numerous reports they
4 regularly received and from emails and presentations prepared by the company's chief credit risk
5 officer. Defendants nevertheless hid this negative information from the public, including
6 Plaintiffs.
7

8 213. Plaintiffs did not know the concealed facts.

9 214. Defendants intended to deceive Plaintiffs. As described herein, that deception
10 was essential to their overall plan to bilk investors, trade on inside information and otherwise
11 pump the value of Defendants stock.
12

13 215. Defendants was one of the nation's leading providers of mortgages. It was
14 highly regarded and by dint of its campaign of deception through securities filings, press
15 releases, web site and branch offices, Defendants had acquired a reputation for performance and
16 quality underwriting. As a result, Plaintiffs reasonably relied upon the deception of the
17 Defendants.
18

19 216. As a proximate result of the foregoing concealment by Defendants, California
20 property values have precipitously declined and continue to decline, gravely damaging Plaintiffs
21 by materially reducing the value of their primary residences, depriving them of access to equity
22 lines, second mortgages and other financings previously available based upon ownership of a
23 primary residence in California, in numerous instances leading to payments in excess of the
24 value of their properties, thereby resulting in payments with no consideration and often
25 subjecting them to reduced credit scores (increasing credit card and other borrowing costs) and
26 reduced credit availability.
27

1 217. Without limiting the damages as described elsewhere in this Complaint,
 2 Plaintiffs damages arising from this Cause of Action also include loss of equity in their houses,
 3 costs and expenses related to protecting themselves, reduced credit scores, unavailability of
 4 credit, increased costs of credit, reduced availability of goods and services tied to credit ratings,
 5 increased costs of those services, as well as fees and costs, including, without limitation,
 6 attorneys' fees and costs.
 7

8 218. To this day, Defendants profess willingness to modify Plaintiffs' loans in
 9 accordance with law, but nonetheless they persist to this day in their secret plan to use Indian or
 10 other offshore servicing companies to deprive Plaintiffs of their rights.
 11

12 219. As a result of the foregoing, Plaintiffs' damages herein are exacerbated by a
 13 continuing decline in residential property values and further erosion of their credit records.
 14

15 220. Defendants' concealments, both as to their pervasive mortgage fraud and as to
 16 their purported efforts to resolve loan modifications with Plaintiffs, are substantial factors in
 17 causing the harm to Plaintiffs described in this Third Amended Complaint.
 18

19 221. Defendants acted outrageously and persistently with actual malice in
 20 performing the acts alleged herein and continue to do so. Accordingly, Plaintiffs are entitled to
 21 exemplary and punitive damages in a sum according to proof and to such other relief as is set
 22 forth below in the section captioned Prayer for Relief which is by this reference incorporated
 23 herein.
 24

25 **SECOND CAUSE OF ACTION**

26 **(By All Plaintiffs – Intentional Misrepresentation – Against All Defendants)**

27 222. Paragraphs 1 through 221 are hereby incorporated by reference as though fully
 28 set forth herein.

1 223. From 2002 through 2007, Defendants misled the public, including Plaintiffs,
2 by falsely assuring them that Defendants was primarily a prime quality mortgage lender which
3 had avoided the excesses of its competitors. As described herein with specific examples,
4 affirmative misrepresentations and material omissions permeated Defendants website, customer
5 and investor materials, required securities filings and presentations.
6

7 224. Without limiting the foregoing, Defendants Forms 10-K falsely represented
8 that Defendants "manage[d] credit risk through credit policy, underwriting, quality control and
9 surveillance activities," and the Forms 10-K falsely stated that Defendants ensured its continuing
10 access to the mortgage backed securities market by "consistently producing quality mortgages."
11

12 225. Defendants Forms 10-K deceptively described the types of loans upon which
13 the Company's business depended. While Defendants provided statistics about its originations
14 which reported the percentage of loans in various categories, the information was misleading
15 because its descriptions of "prime non-conforming" and "nonprime" loans in its periodic filings
16 were insufficient to inform Plaintiffs what types of loans were included in those categories.
17

18 226. Nothing in Defendants securities filings informed Plaintiffs that Defendants
19 "prime non-conforming" category included loan products with increasing amounts of credit risk.
20 While guidance issued by the banking regulators referenced a credit score ("FICO score") at 660
21 or below as being an indicator of a subprime loan, some within the banking industry drew the
22 distinction at a score of 620 or below. Defendants, however, did not consider any FICO score to
23 be too low to be categorized within "prime". Nor did Defendants definition of "prime" inform
24 Plaintiffs that its "prime non-conforming" category included so-called "Alt-A" loan products
25 with increasing amounts of credit risk, such as (1) reduced or no documentation loans; (2) stated
26 income loans; and (3) loans with loan to value or combined loan to value ratios of 95% and
27

1 higher. Finally, it did not disclose that Pay-Option ARM loans, including reduced
2 documentation Pay-Option ARM loans, were include in the category of prime loans.

3 227. Though Defendants proclaimed that it managed credit risk through its loan
4 underwriting, the company's increasingly wide underwriting guidelines and exceptions process
5 materially increased Defendants credit risk during that time.

6 228. Defendants depended on its sales of mortgages into the secondary market as an
7 important source of revenue and liquidity. As a result, Defendants was not only directly expose
8 to credit risk through the mortgage-related assets on its balance sheet, but also indirectly exposed
9 to the risk that the increasingly poor quality of its loans would prevent their continued profitable
10 sale into the secondary mortgage market and impair Defendants liquidity. Rather than disclosing
11 this increasing risk, Defendants gave false comfort, again touting Defendants loan quality.
12 Accordingly, Defendants failure to disclose its widening underwriting guidelines and the
13 prevalence of exceptions to those guidelines in 2005 and 2006 constituted material omissions
14 from Defendants periodic reports.

15 229. These documents contained misrepresentations as follows:

- 16
17 a. First, Defendants' Forms 10-K for 2005, 2006, and 2007 stated that Defendants
18 "manage[d] credit risk through credit policy, underwriting, quality control and
19 surveillance activities" and touted the Company's "proprietary underwriting
20 systems... that improve the consistency of underwriting standards, assess
21 collateral adequacy and help to prevent fraud." These statements were false,
22 because Defendants knew that a significant portion of Defendants' loans were
23 being made as exceptions to Defendants' already extremely broad underwriting
24 guidelines.
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1 b. Second, Defendants stated in its 2005 Form 10-K; "We ensure our ongoing access
2 to the secondary mortgage market by consistently producing quality mortgages...
3 We make significant investments in personnel and technology to ensure the
4 quality of our mortgage loan production." A virtually identical representation
5 appears in Defendants' 2006 Form 10-K. These statements were false, because, as
6 set forth in detail above, Defendants was aware that Defendants was originating
7 increasing percentages of poor quality loans that did not comply with Defendants'
8 underwriting guidelines.

10 c. Third, the descriptions of "prime non-conforming" and "subprime" loans in
11 Defendants' Forms 10-K were misleading because they failed to disclose what
12 types of loans were included in those categories. The definition of "prime" loans
13 in Defendants' 2005, 2006, and 2007 Forms 10-K was: "Prime Mortgage Loans
14 include conventional mortgage loans, loans insured by the Federal Housing
15 Administration ("*FHA*") and loans guaranteed by the Veterans Administration
16 ("*VA*"). A significant portion of the conventional loans we produce qualify for
17 inclusion in guaranteed mortgage securities backed by Fannie Mae or Freddie
18 Mac ("conforming loans"). Some of the conventional loans we produce either
19 have an original loan amount in excess of the Fannie Mae and Freddie Mac loan
20 limit for single-family loans (\$417,000 for 2006) or otherwise do not meet Fannie
21 Mae or Freddie Mac guidelines. Loans that do not meet Fannie Mae or Freddie
22 Mac guidelines are referred to as "nonconforming loans".

23
24
25 230. Nothing in that definition informed Plaintiffs that Defendants included in its
26 prime category loans with FICO scores below 620. Nor did the definition inform Plaintiffs that
27

1 the "prime non-conforming" category included loan products with increasing amounts of credit
2 risk, such as (1) reduced and/or no documentation loans; (2) stated income loans; or (3) loans
3 with loan to value or combined loan to value ratios of 95% and higher. Finally, it did not
4 disclose that Defendants' riskiest loan product, the Pay-Option ARM, was classified as a "prime
5 loan".

6
7 231. The foregoing misrepresentations were made with the intention that Plaintiffs
8 rely thereon. It was important to Defendants that Plaintiffs rely on its misrepresentations so that
9 Plaintiffs would come to a false understanding as to the nature of Defendants' business. The
10 foregoing misrepresentations were specifically intended to convince Plaintiffs to take mortgages
11 from Defendants.

12
13 232. The campaign of misinformation succeeded. Plaintiffs relied upon the
14 misrepresentations and entered into mortgages with Defendants.

15
16 233. By reason of Defendants' prominence and campaign of deception as to its
17 business plans and the relationship of trust developed between each of the Defendants and
18 Plaintiffs, Plaintiffs were justified in relying upon Defendants' representations.

19
20 234. As a result of relying upon the foregoing misrepresentations, each Plaintiff
21 entered into a mortgage contract with Defendants.

22
23 235. In fact, the appraisals were inflated. Defendants did not utilize quality
24 underwriting processes. Defendants' financial condition was not sound, but was a house of cards
25 ready to collapse, as Defendants well knew, but Plaintiffs did not. Further, Plaintiffs' mortgages
26 were not refinanced with fixed rate mortgages and neither Agate nor Defendants ever intended
27 that they would be.
28

1 236. As a result of Defendants' scheme described herein, Plaintiffs could not afford
2 the Defendants mortgage when its variable rates features and/or balloon payments kicked in.
3 Further, as a result of the Defendants scheme, Plaintiffs could not refinance or sell their
4 residence without suffering a loss of their equity investments.

5
6 237. As a result of the foregoing, Plaintiffs have lost all or a substantial portion of
7 the equity invested in their houses and suffered reduced credit ratings and increased borrowing
8 costs, among other damages described herein.

9 238. Plaintiffs' reliance on the misrepresentations of the Defendants, appraisers and
10 Agate, all directed and ratified by the Defendants, was substantial factor in causing Plaintiffs'
11 harm.

12
13 239. Defendants and the Defendants represented to multiple Plaintiffs that they
14 would be assisted by Defendants in a loan modification. As described herein, that representation
15 was false. Defendants knew that representation was false when they made it.

16 240. Because of new laws pertaining to loan modifications and Defendants'
17 insistence that they had a genuine interest in complying therewith and in keeping borrowers in
18 their homes, Plaintiffs reasonably relied on the representations.

19
20 241. By delaying Plaintiffs from pursuing their rights and by increasing Plaintiffs'
21 costs and the continuing erosion of each Plaintiff's credit rating, each Plaintiff's reliance harmed
22 that Plaintiff.

23 242. Without limiting the damages as described elsewhere in this Complaint,
24 Plaintiffs damages arising from the matters complained of in this Cause of Action also include
25 loss of equity in their houses, costs and expenses related to protecting themselves, reduced credit
26 scores, unavailability of credit, increased costs of credit, reduced availability of goods and
27

1 services tied to credit ratings, increased costs of those services, as well as fees and costs,
2 including, without limitation, attorneys' fees and costs.

3 243. Plaintiff's reliance on the representations made by Defendants and Defendants
4 was a substantial factor in causing Plaintiff's harm.

5 244. Plaintiffs are entitled to such relief as is set forth in this Cause of Action and
6 such further relief as is set forth below in the section captioned Prayer for Relief which is by this
7 reference incorporated herein.
8

9 **THIRD CAUSE OF ACTION**

10 **(By All Plaintiffs – Negligent Misrepresentation – Against All Bank Defendants)**

11 245. Paragraphs 1 through 245 are hereby incorporated by reference as though fully
12 set forth herein.

13 246. Although the Defendants may have reasonably believed some or all of the
14 representations they made, described in this Complaint, were true, none of them had reasonable
15 grounds for believing such representations to be true at the time: (a) the representations were
16 instructed to be made, as to those Defendants instructing others to make representations, or (b) at
17 the time the representations were made, as to those Defendants making representations and those
18 Defendants instructing others to make the representations, or (c) at the time the representations
19 were otherwise ratified by the Defendants.
20

21 247. Such representations, fully set forth in the First Cause of Action and previous
22 sections of this Complaint, were not true.
23

24 248. Defendants intended that Plaintiffs rely upon those misrepresentations.

25 249. As described herein, Plaintiffs reasonably relied on those representations.
26
27
28

1 250. By reason of Defendants' prominence and campaign of deception as to its
2 business plans and the relationship of trust developed between each of the Defendants and
3 Plaintiffs, Plaintiffs were justified in relying upon Defendant's representation.

4 251. As a result of relying upon the foregoing misrepresentations, each Plaintiff
5 entered into a mortgage contract with a Defendants.

6 252. As a result of Defendants' scheme described herein, Plaintiffs could not afford
7 his or her Defendants mortgage when its variable rate features and/or balloon payments kicked
8 in. Further, as a result of the Defendants scheme, Plaintiffs could not refinance or sell his or her
9 residence without suffering a loss of Plaintiff's equity.

10 253. Without limiting the damages as described elsewhere in this Complaint,
11 Plaintiffs damages as a result of the foregoing also include loss of equity in their houses, costs
12 and expenses related to protecting themselves, reduced credit scores, unavailability of credit,
13 increased costs of credit, reduced availability of goods and services tied to credit ratings,
14 increased costs of those services, as well as fees and costs, including, without limitation,
15 attorneys' fees and costs.

16 254. Plaintiffs are entitled to such relief as is set forth in this Cause of Action and
17 such further relief as is set forth below in the section captioned Prayer for Relief which is by this
18 reference incorporated herein.

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22
23 **FOURTH CAUSE OF ACTION**
24 **(By all Plaintiffs – Invasion of Constitutional Right to Privacy – Against All Bank**
25 **Defendants)**

26 255. Paragraphs 1 through 254 are hereby incorporated by reference as though fully
27 set forth herein.

1 256. The guarantee of privacy granted to each Californian is a special and unique
2 right embedded in the very first clause of the California Constitution. Article I, § 1 of the
3 California Constitution provides:

4 All people are by nature free and independent and have inalienable rights. Among
5 these are enjoying and defending life and liberty, acquiring, possessing, and
6 protecting property, and pursuing and obtaining safety, happiness, and **privacy**.
7
8 (Emphasis supplied)

9 257. The unauthorized disclosure of "*Private Information*" (confidential, nonpublic
10 personal information, including such information as social security numbers, dates of birth,
11 property values, bank and credit card account numbers, and other personal information) is a
12 fundamental violation of Californians' inalienable right to privacy. Each Plaintiff has a
13 constitutionally protected privacy interest and right in his or her Private Information.
14

15 258. Each Plaintiff provided Private Information to the Defendants as a requirement
16 for obtaining a mortgage from Defendants. Each Plaintiff had a reasonable expectation that the
17 Defendants would preserve the privacy of that Plaintiff's Private Information. The right of
18 privacy and the Plaintiffs' interest in their Private Information is a constitutionally protected
19 inalienable property right.
20

21 259. Defendants directly and through their agents violated Plaintiffs' inalienable
22 privacy rights by disclosing the Private Information without their knowledge, authorization or
23 consent. This unauthorized disclosure of private information is intrusive into the most private
24 reaches of the Plaintiffs' lives, and does not include information that is of a legitimate public
25 concern.
26
27
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1 260. Possession of personal confidential information allows criminals to “breed”
2 identities, that is, to obtain other forms of identification that may further enhance their ability to
3 misuse another’s identity.

4 261. Social security numbers are among the most sought after and valuable items of
5 personal information to an identify thief.
6

7 262. The average victim of unauthorized use of wrongfully disclosed personal
8 confidential information spends approximately 600 hours and \$1,400 repairing his or her credit
9 once violated.
10

11 263. Victims of identity theft also often suffer further financial loss from the denial
12 of credit or utility services, increased difficulty in securing employment and housing, and higher
13 insurance and credit rates. In some cases, an identity theft victim may even have a criminal
14 record develop in his or her name. Further costs include lost wages or vacation time, diminished
15 work performance, increased medical problems, and impact on family and friends.

16 264. It is often the case that a victim will not discover that his or her Private
17 Information has been stolen and misused until long after an identity theft has taken place, and
18 then only when they are denied credit or discover that their bank account has been emptied.
19

20 265. The California Constitution (Art. I, § 1) is self-executing and confers a right of
21 action beyond the scope of the mere common law tort. *See, e.g., Burt v. Orange* (2004) 120
22 Cal.App.4th 273, 284.

23 266. Fundamental to privacy is the ability to control circulation of personal
24 information. The proliferation of business records over which individuals have no control limits
25 their ability to control their personal lives. Personal privacy is threatened by the information-
26 gathering capabilities and activities of private business – and never more than when a financial
27
28

1 institution that requires personal information to permit a consumer to buy a home and obtains it
2 with the assertion and promise it will be safeguarded fails to safeguard that information.

3 267. On information and belief, as Defendants' condition deteriorated, in
4 furtherance of Defendants' unlawful deception of Plaintiffs and Defendants' investors,
5 Defendants began running credit checks on its borrowers to determine who was experiencing
6 financial difficulties. These credit checks were outsourced, meaning that private data and other
7 information was sent off-site. The goal was to develop information that could be used to further
8 Defendant's fraud involving the sale of collateralized securities and also to improperly provide
9 information to those who already had purchased such collateralized securities in order to give
10 Defendants a tactical advantage ahead of other banks.

11
12 268. But, the real estate market collapsed so rapidly that Defendants was caught in
13 the middle of its scheme. The FBI then identified Defendants employees for their role in the
14 unlawful disclosure of private and confidential information.

15
16 269. On information and belief, third parties unlawfully used the Private
17 Information acquired from Defendants thereby further damaging each Plaintiff.

18
19 270. By reason of the conduct alleged herein, Defendants violated each Plaintiff's
20 constitutional right of privacy and each Plaintiff has suffered special damages in an amount
21 according to proof at trial.

22 271. Further, as a proximate and foreseeable result of Defendants' intentional
23 disclosure of Plaintiff's Private Information, each Plaintiff has suffered general damages –
24 including pain and suffering and emotional distress – in an amount according to proof at trial.

25
26 272. Defendants conduct is willful, outrageous and pervasive, involving hundreds of
27 thousands of California citizens. Not only did Defendants abuse Private Information, willfully
28

1 fail to maintain the security of the Private Information, and then disclose it to third parties
 2 without permission, but they took no material steps to retrieve the Private Information, concealed
 3 the extent of the violations, and then embarked on a scheme to defraud this Court and the United
 4 States District Court for the Western District of Kentucky.

5
 6 273. Without limiting the damages as described elsewhere in this Complaint,
 7 Plaintiffs damages as a result of the foregoing also include direct losses associated with identify
 8 theft and the losses associated with reduced credit scores, including, among others, unavailability
 9 of credit, increased costs of credit, reduced availability of goods and services tied to credit
 10 ratings, increased costs of those services, as well as fees and costs, including, without limitation,
 11 attorneys' fees and costs.

12
 13 274. Defendants acted with actual malice by disclosing Plaintiffs' Private
 14 Information, failing to cure the same, concealing the magnitude of the problem, and then lying to
 15 this Court and the Kentucky Federal Court, and retailing against California Plaintiffs herein by
 16 covertly attempting to maneuver this Court into depriving them of their rights. Plaintiffs are
 17 entitled to exemplary and punitive damages in a sum according to proof and such further relief as
 18 is set forth below in the section captioned Prayer for Relief which is by this reference
 19 incorporated herein.
 20

21
 22 **FIFTH CAUSE OF ACTION**
 23 **(By All Plaintiffs – Violation of California Financial Information Privacy Act – Against All**
Bank Defendants)

24 275. Paragraphs 1 through 274 are incorporated by reference as though fully set
 25 forth herein.
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1 276. The Defendants' disclosure of nonpublic personal information and personally
2 identifiable financial information constituted violations of the California Financial Information
3 Privacy Act. California Financial Code §§ 4050-4060.

4 277. Without limiting the damages as described elsewhere in this Complaint,
5 Plaintiffs damages as a result of the foregoing also include direct losses associated with identify
6 theft and the losses associated with reduced credit scores, including, among others, unavailability
7 of credit, increased costs of credit, reduced availability of goods and services tied to credit
8 ratings, increased costs of those services, as well as fees and costs, including, without limitation,
9 attorneys' fees and costs.
10

11 278. The Plaintiffs may recover damages under California Financial Code § 4057(a)
12 according to proof and such further relief as is set forth below in the section captioned Prayer for
13 Relief which is by this reference incorporated herein.
14

15
16 **SIXTH CAUSE OF ACTION**
17 **(Injunctive Relief for Violation of Cal. Civil Code § 2923.5 – By All Plaintiffs Against All**
18 **Bank Defendants)**

19 279. Paragraphs 1 through 278 are incorporated by reference as though fully set
20 forth herein.

21 280. Pursuant to California Civil Code, § 292.5, the Defendants – and each of them
22 - are prohibited by statute from recording a Notice of Default against the primary residential
23 property of any California without first making contact with that person as required under §
24 2923.5 and then interacting with that person in the manner set forth in detail under § 2923.5. An
25 exception to this rule of law exists in the event the Defendants are unable with due diligence to
26 contact the property owner.
27

281. With respect to all Plaintiffs in this cause of action, the realty that is the subject hereof was and is their primary residential dwelling within the meaning of § 2923.5.

282. The Defendants, and each of them, caused Notices of Default to be recorded against the primary residential properties of the Plaintiffs named in this cause of action absent compliance with California Civil Code, § 2923.5. Included in the noncompliance, Defendants, and each of them, caused declarations to be recorded in the public records that were – each of them – false. This act also violates § 2923.5 and other California laws precluding the filing of false statements.

283. Plaintiffs are entitled to such relief as is set forth in this Cause of Action and such further relief as is set forth below in the section captioned Prayer for Relief which is by this reference incorporated herein.

SEVENTH CAUSE OF ACTION
(By All Plaintiffs – Violation of Cal. Civil Code § 1798.82 – Against All Bank Defendants)

284. Paragraphs 1 through 283 are incorporated by reference as though fully set forth herein.

285. The Defendants failed to timely disclose to Plaintiffs the disclosure of their personal information as required under California Civil Code § 1798.82.

286. As a proximate result of the foregoing untimely disclosure by Defendants, the Plaintiffs were damaged as described in this Complaint. Without limiting the damages as described elsewhere in this Complaint, Plaintiffs damages also include direct losses associated with identity theft and the losses associated with reduced credit scores, including, among others, unavailability of credit, increased costs of credit, reduced availability of goods and services tied

1 to credit ratings, increased costs of those services. as well as fees and costs, including, without
 2 limitation, attorneys' fees and costs. Plaintiffs may recover damages under California Civil
 3 Code § 1798.84 according to proof and such further relief as is set forth below in the section
 4 captioned Prayer for Relief which is by this reference incorporated herein.

5
 6 **EIGHTH CAUSE OF ACTION**
 7 **(By All Plaintiffs – Unfair Competition – Against All Bank Defendants)**

8 287. Paragraphs 1 through 286 are incorporated by reference as though fully set
 9 forth herein.

10 288. Defendants' actions in implementing and perpetrating their fraudulent scheme
 11 of inducing Plaintiffs to accept mortgages for which they were not qualified based on inflated
 12 property valuations and undisclosed disregard of their own underwriting standards and the sale
 13 of overpriced collateralized mortgage pools, all the while knowing that the plan would crash and
 14 burn, taking the Plaintiffs down and costing them the equity in their homes and other damages,
 15 violates numerous federal and state statutes and common law protections enacted for consumer
 16 protection, privacy, trade, disclosure, and fair trade and commerce.

17 289. The Defendants perpetrated their fraudulent scheme of selling off overpriced
 18 loans by making willful and inaccurate credit disclosures regarding Defendants' borrowers,
 19 including Plaintiffs, to third parties. This false credit disclosure was critical to the success of
 20 Defendants' continued sales of the massive pools of mortgage loans necessary to perpetuate the
 21 scheme. The Defendants were aware that if the true credit profiles of the borrowers and the
 22 values of their real estate were accurately disclosed, the massive fraudulent scheme would end.
 23 As a result, the Defendants repeated, reinforced and embellished their false disclosures.
 24
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1 290. The Defendants knew the borrowers' credit was inadequate to support
2 continued loan payments, absent unsustainable inflation of property values. These pervasive
3 false credit disclosures to third parties (including purchasers of bundled mortgage pools created
4 by the Defendants) constituted false credit reports in violation of the Fair Credit Reporting Act,
5 15 U.S.C. §§ 1681 *et seq.* and these pervasive false disclosures permitted the Defendants to
6 continue their scheme and victimize the Plaintiffs.
7

8 291. These pervasive false disclosures also caused the bubble to burst. Once it
9 became known that some of the information provided by Defendants was false, the market for
10 the sale bundled loans dried up. The Defendants began to issue foreclosure notices, property
11 values began dropping, and then, under the weight of *deflation* in a market that requires *inflation*,
12 the equity investments made by Plaintiffs and others in their homes was lost... and then
13 Plaintiffs were lost in the greatest economic recession since the 1930s.
14

15 292. As alleged by the SEC, this fraud also violated Federal law, including, without
16 limitation, the antifraud provisions and insider provisions of the Securities Act of 1933
17 ("*Securities Act*") and the Securities Exchange Act of 1935 ("*Exchange Act*"), including, without
18 limitation:
19

- 20 a. Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), by engaging conduct
21 which acted as a fraud on the purchaser of securities based on collateralized
22 mortgage pools;
23 b. Section 10(b) of the Securities Act and Rule 10b-5 thereunder, 15 U.S.C. § 78j(b)
24 and 17 C.F.R. 240.10B-5, by making untrue statements of material fact and
25 omitting to state material facts necessary in order to make the statements made, in
26 the light of the circumstances under which they were made, not misleading and/or
27

1 otherwise engaging in acts, practices, or courses of business which operated as a
2 fraud or deceit upon purchasers of securities based on collateralized mortgage
3 pools; and

4 c. Section 13(a) of the Securities Exchange Act and Rules 12b-20, 13a-1 and 13a-3
5 thereunder, 15 U.S.C. § 78t(e) by filing with the SEC false information for the
6 fiscal years 2005 through 2007.
7

8 293. The foregoing violations were in furtherance of the fraud perpetrated on
9 Plaintiffs. In fact, Defendants could not have told the truth in their public filings without that
10 truth becoming known to Plaintiffs. Conversely, the false filings gave additional credence and
11 support to omissions, concealment, promises and inducements.
12

13 294. While processing the home loans of each Plaintiff herein, the Defendants and
14 other Defendants came into possession, custody and control of their Private Information.

15 295. The guarantee of privacy granted to each California is a special personal and
16 property right. Other states may accord privacy rights by way of statute, or otherwise, but the
17 privacy right in California is a unique, fundamental, Constitutional, and *inalienable* right that is
18 also a protectable property interest. The privacy right granted by the California Constitution
19 necessarily includes protection from the release of the Private Information.
20

21 296. The Defendants acknowledge and admit that their agents and/or employees
22 disclosed the Private Information of Plaintiffs to outside persons.

23 297. This Private Information of Plaintiffs was sold or otherwise disclosed to third
24 parties without Plaintiffs' consent, further violating Article I, § 1 of the California Constitution
25 and the California Financial Information Privacy Act.
26
27
28

1 298. The Private Information was disclosed and then used unlawfully and
2 fraudulently to apply for and receive multiple credit cards, charge accounts, and other credit from
3 businesses in the mistaken belief that they were dealing with a Plaintiff, and not with an identify
4 thief.

5
6 299. These undeniable disclosures by the Defendants of nonpublic personal
7 information of the Plaintiffs and others also violated the Gramm-Leach-Bliley Act, 15 U.S.C. §§
8 6801 *et seq.*

9 300. By violating Plaintiffs' right to privacy and by misappropriating nonpublic
10 personal information for their own use, the Defendants thus wrongfully took each Plaintiff's
11 property interest in his or her Private Information and privacy, injuring each Plaintiff, and, as a
12 result, Plaintiffs are eligible for restitution because the Defendants wrongfully acquired the
13 property in which Plaintiffs had an ownership or vested interest.

14
15 301. The forgoing fraudulent concealment, material misstatements, and the
16 intentional violations of state and federal statutes cited herein constitute unlawful, unfair and
17 fraudulent business acts or practices and so constitute unfair business practices within the
18 meaning of the California Unfair Practices Act. Cal. Bus. & Professions Code §§ 17200, 17500.
19 Sections 17200 *et seq.* of the California Business & Professions Code provide, in the disjunctive,
20 for liability in the event of any such "unlawful, unfair or fraudulent business act or practice".

21
22 302. The violations described herein are unlawful, in that they violate *inter alia*
23 Article I, § 1 of the California Constitution, the California Financial Information Privacy Act,
24 Cal. Civil Code §§ 1780.80-84, the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act and
25 the Federal laws described herein. These violations are the basis for liability under § 17200 of
26 the Business and Professions Code, as is the unlawful and fraudulent activity described herein.

1 303. The actions described herein are unfair and patently fraudulent in that they
2 were conducted for the sole purpose of perpetuating an unlawful and unsustainable investment
3 scheme.

4 304. As a result of the actions, concealment and deceit described herein, each of the
5 Plaintiffs has suffered material financial injury in fact, including as described elsewhere in this
6 Complaint, loss of equity in their houses, costs and expenses related to protecting themselves,
7 reduced credit scores, unavailability of credit, increased costs of credit, reduced availability of
8 goods and services tied to credit ratings, increased costs of those services, as well as fees and
9 costs, including, without limitation, attorneys' fees and costs.
10

11 305. As a further result of the actions, concealment and deceit described herein,
12 each of the Plaintiffs has lost money or property as a result of such unfair competition, including
13 the loss of Plaintiffs' property interest in their Private Information as a result of the
14 unconscionable invasion of privacy and misappropriation of nonpublic personal information.
15

16 306. California Civil Code § 2923.5 requires that each mortgagee, trustee,
17 beneficiary, or authorized agent may not file a notice of default pursuant to California Civil Code
18 § 2924 until 30 days after initial contact is made as required therein, or 30 days after satisfying
19 the due diligence requirements to contact the mortgage described therein. Defendants violated
20 the foregoing law by causing a notice of default to be filed against Plaintiffs without the
21 mandatory notice. Defendants did not diligently endeavor to contact the Plaintiffs as required by
22 § 2923.5(g) and Defendants thereby also violated California Civil Code §§ 2923.5 and 2924.
23

24 307. As a result of the foregoing unlawful conduct, Plaintiffs suffered further injury
25 in fact by the filing of notices of default and as such the Plaintiffs suffered monetary and
26 property loss. Such injuries and loss included diminished credit scores with a concomitant
27

1 increase in borrowing costs and diminished access to credit, fees and costs, including, without
2 limitation, attorneys' fees and costs with respect to wrongful notices of default and loss of some
3 or all of the benefits appurtenant to the ownership and possession of real property.

4 308. The foregoing unlawful activities were pervasive and violate Business and
5 Professions Code § 17200 *et seq.*
6

7 309. As a result of Defendants' unfair competition, Plaintiffs are entitled to
8 restitution for all sums received by Defendants with respect to Defendants' unlawful and/or
9 unfair and/or fraudulent conduct, including, without limitation, interest payments made by
10 Plaintiffs, fees paid to Defendants, including, without limitation, the excessive fees paid at
11 Defendants' direction as alleged by the FTC, and premiums received upon selling the mortgages
12 at an inflated value.
13

14 310. Plaintiffs are also entitled to the issuance of a temporary restraining order, a
15 preliminary injunction, and a permanent injunction restraining and enjoining Defendants from
16 any further concealment with respect to the sale of notes and mortgages, any further violation of
17 § 2923.5, any further violation of Article I, § 1 of the California Constitution, the California
18 Financial Information Privacy Act, Cal. Civil Code § 1798.82, the Fair Credit Reporting Act, and
19 the Gramm-Leach-Bliley Act, and any further disclosure or use of the Private Information, other
20 than as intended by the Plaintiffs.
21

22 311. Plaintiffs are entitled to such relief as is set forth in this Cause of Action and
23 such further relief as is set forth below in the section captioned Prayer for Relief which is by this
24 reference incorporated herein.
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